

**COMMUNICATION FROM THE UNITED STATES**

**Movement of Natural Persons**

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

**I. INTRODUCTION AND RATIONALE**

1. The GATS has proven to be a flexible agreement, one that is adaptable to differences among sectors. To date, the GATS has had demonstrated success in addressing aspects of trade in services unique to two highly regulated sectors – basic telecommunications and financial services. The United States suggests that a similar, tailored approach is appropriate in another highly-regulated area of trade in services, horizontal restrictions on movement of natural persons.

2. The United States further suggests that such an approach may be more important in this area of services than in other modes of supply. While market entry of *juridical* persons is affected by regulations in many sectors, regulations that affect market entry of *natural* persons may well have a greater impact due to the explicitly temporary nature of market access in mode four. That is, service suppliers in mode four are not permitted to establish a presence, and therefore they must face the same entry restrictions anew each time they seek to provide their services. For this reason, regulations affecting such access to the market can have a greater impact than comparable regulations affecting entry in other modes.

3. Further, mode four by its nature is made up of individuals, rather than companies, and individuals often have more limited abilities than companies to interact with government regulators. Due to lack of comparable resources, ease of access to information and procedural transparency can be significantly more important for natural persons than for juridical persons. Treatment afforded natural persons in these two areas - access to information and procedural transparency - can significantly affect the ability of natural persons to compete as service suppliers in the potential host-country market.

**II. PROPOSAL**

4. For these reasons, the United States proposes that in the GATS negotiations Members initially address the need for additional regulatory disciplines to ensure full implementation of existing and potential new market access commitments in this mode.

5. Specifically, the United States proposes that Members address the following in these negotiations as trade-related regulatory aspects of this mode of supply:

- Access to information: Information that would help promote competitive access may include laws and regulations relevant to entry, stay, and work authorization of natural persons, including relevant terms and conditions. It may also include the procedures and application materials relevant to entry and stay.
  - Procedural transparency: Aspects of procedural transparency may include timely governmental responses to applications submitted for temporary entry and stay, and, in appropriate cases, a statement of the reason for denial of such application. Such aspects may also include an opportunity for interested parties to comment on proposed new or amended regulations concerning temporary entry and stay.
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