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Working Party on Domestic Regulation

EXAMPLES OF MEASURES TO ADDRESSED BY DISCIPLINES UNDER GATS ARTICLE VI:4

Informal Note by the Secretariat

## I. INTRODUCTION

1. At the request of the Working Party on Domestic Regulation (WPDR), the Secretariat has prepared this Note concerning examples of the kinds of measures that would be addressed by disciplines under GATS Article VI:4.
2. In the WPDR meeting of 29 November 2000, Members agreed to have the Secretariat list examples of the kinds of measures that would be addressed by disciplines under GATS Article VI:4, based on contributions by Members and a review of the Working Party on Professional Services (WPPS) accountancy materials by the Secretariat. The Secretariat paper was to list specific measures not already covered by the accountancy disciplines, which were also not Article XVI or XVII measures. The Chairman stated that the elaboration of this list would not preclude parallel discussions among Members on the same issue.
3. In the preparation of this Note, it has been inevitable for the Secretariat to exercise a certain degree of judgement concerning whether certain measures fell within the scope of Article VI:4. It should be noted, however, that the sole purpose of this Note is to facilitate discussion in the Working Party. Any authoritative interpretation of GATS provisions remains the exclusive authority of Members of the WTO.

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## ANNEX I - EXAMPLES CONTRIBUTED BY MEMBERS

A These examples appear to meet the requirements set by Members, i.e. specific measures not already found in the accountancy disciplines, which are also not XVI/XVII measures:

### Licensing Requirements

- [Subject to Members' interpretation.] Restrictive regulations relating to zoning and operating hours, to protect small stores.

### Licensing procedures

- It is necessary to obtain/renew the same license in every regional government.
- The effective period of licensing is very short.
- Authorization may not be handled through a single point.

### Qualification procedures

- A large number of documents is required (application procedures).

B. The following measures also appear to meet the requirements set by Members - provided they apply to sectors other than accountancy (otherwise they are already covered by the accountancy disciplines):

### Licensing requirements

- Unduly burdensome requirements.

- Residency requirements.
- To be licensed as a professional, there is a requirement or pre-requirement to be a member of an affiliate organization. This organization has no regulatory authority over the profession (i.e. union, country club). To be a member of this organization, the licensee must be a resident of the territory or have lived in the territory for the past six months.
- Applicant must possess indemnity insurance or be bonded prior to licensing.
- Licensing fees that are considered as expensive by international standards.
- Registration/approval is required in order to provide services.
- Authorization requirements are cumbersome: e.g. a permit is required for every single project.

#### Licensing procedures

- Work history and letters of reference from all previous employers unrelated to the authorization sought.
- Documented proof of physical and mental well-being.
- Only original documents will be accepted.
- Delays in receiving an application.
- Delays in informing the applicant of the decision (unreasonable time).
- No possibility for the applicant of correcting minor errors in its application form.
- No possibility of resubmitting applications for licensing after a first rejection.
- Delays in implementing the terms of the licence

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- Lack of transparency
- The period of time required for the processing of a license application is not very clear.
- The processing period for a license application is long.
- A great deal of documents must be submitted through several stages in order to obtain authorization
- Authorization procedures are costly.
- Authorization procedures take up a considerable amount of time.

#### Qualification requirements

- Residency/citizenship requirements.
- The scope of examinations of qualification requirements goes beyond subjects relevant to the activities for which authorization is sought.
- Qualification requirements other than education, examinations, practical training, experience and language skills.
- Examinations that do not appear to be directly related to the concerned qualifications are required.

#### Qualification procedures

- Long delays in the certification of an applicant's qualifications acquired in the territory of another Member.
- Non-recognition of foreign qualifications.
- Unreasonable intervals for examination of applications .
- Limited openness or process (all eligible applicants do not benefit from the same level of openness).
- Unreasonable period of time for the submission of applications.
- Excessive administrative costs that do not reflect fees charged.
- Residency requirements for sitting examinations (not subject to Article XVII).

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#### ANNEX II – EXAMPLES FROM WPPS MATERIALS

A. These examples apply to meet the requirements set by Members, i.e specific measures not already found in the accountancy disciplines, which are also not XVI/XVII measures:

#### Licensing procedure

- Minimum capital requirements.
- Applications to more than one licensing authority in any given jurisdiction for a particular service are required.

#### Technical standards

- [Subject to Members interpretation.] Restrictions on fee-setting, and restrictions/prohibitions on marketing and advertising.
- National standards which diverge from international standards.

B. The following measures also appear to meet the requirements set by Members -- provided they apply to sectors other than accountancy (otherwise they are already covered by the accountancy disciplines):

#### Licensing requirements

- Restrictions on the use of firm names.
- Residency requirements

#### Qualification requirements

- Requirements which do not take account of foreign qualifications.
  - Local training requirements exceeding 12 months.
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