

**Issues received from delegations for discussion**  
**at the informal meeting of the WPDR on 8 July 2008**

**Paragraph 3:** The delegation of Barbados, on behalf of SVE delegations, wishes to raise the issue of regulatory approaches, in relation to an earlier SVE proposal. It proposes the following addition (in bold) to paragraph 3 of the revised draft disciplines.

3. Members recognize the right to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right. **These disciplines should not be construed to prescribe or impose particular regulatory approaches of any particular regulatory provisions in domestic regulation.**

**Paragraph 7:** The delegation of China would like to discuss the following questions on the definition of "qualification requirements":

1. Does the definition mean the qualification requirements can not be imposed to legal persons?
2. If we put all the qualification requirements of legal persons into licensing requirements, does it mean Members can still use the term "qualification requirement" in their domestic regulation, but according to the guideline described in the licensing requirements part?

**Paragraph 11:** The delegation of the United States would like to discuss the use of the terms "pre-established" and "relevant."

**Paragraph 12:** The delegation of the United States would like to discuss the special provision related to universal service obligation.

**Paragraph 16:** The delegation of Switzerland proposes the following addition (in bold):

16. Where residency requirements for licensing not subject to scheduling under Article XVII of the GATS exist, each Member shall consider whether less trade restrictive means could be employed to achieve the purposes for which these requirements were established. **Each Member shall ensure that no requirement is imposed other than as necessary to ensure the quality of the service.**

**Paragraph 17:** The delegation of Switzerland proposes the following addition (in bold):

17. Each Member shall ensure that licensing procedures, including application procedures and, where applicable, renewal procedures, are as simple as possible and do not in themselves constitute a restriction on the supply of services. **Each Member shall ensure that no procedures are imposed other than necessary to verify the compliance with the licensing requirements by the applicant.**

**Paragraphs 17 and 31:** The delegation of the United States would like to discuss the requirements that licensing procedures and qualification procedures be "as simple as possible" and that they do not "in themselves constitute a restriction on the supply of services."

**Paragraph 19:** The delegation of Chinese Taipei proposes to re-draft paragraph 19 as follows:

19. **As far as practicable, an applicant should not be required to approach more than one competent authority in connection with an application for a license.**

**Paragraphs 19 and 32:** The delegation of the United States would like to discuss the requirements that a license applicant and qualification applicant "in principle, not be required to approach more than one competent authority in connection with an application for a license."

**Paragraphs 23, 37 and throughout text:** The delegation of the United States would like to discuss the use of the term "in principle" to establish a standard of compliance.

**Paragraph 27:** The delegation of Japan submits the following questions for discussion:

- (a) Are "the adequate procedures" in this paragraph something that all Members shall establish as a statutory system, or might they be an administrative practice?
- (b) Where qualifications are determined through examinations, can Members fulfil the requirement of this paragraph by allowing foreign service suppliers to take such examinations on the same conditions as its nationals?
- (c) Does the paragraph 27 also apply to services other than professional services which are already subject to Article VI: 6 of the GATS?
- (d) Who, if any, would determine whether the competent authority gave "due consideration" under this paragraph? Does the burden of proof lie on the side of the Member giving such consideration, or the Member to whom the service suppliers belong to? (In dispute settlement proceedings, who, if anyone, determines whether professional experience is "relevant" under the second sentence and whether membership in a professional association is "indicative" under the third sentence? Will the Panel accept a view of the Member to whom the competent authority belongs to, or will the Panel engage in a *de novo* review?)

**Paragraph 27:** The delegation of Switzerland suggests the following addition (in bold):

27. Where a Member imposes qualification requirements for the supply of a service, it shall ensure that adequate procedures exist for the verification and assessment of qualifications held by service suppliers of other Members. **Each Member shall ensure that no requirement is imposed other than as necessary to ensure the competence of the applicant.** In verifying and assessing qualifications, the competent authority shall give due consideration to relevant professional experience of the applicant as a complement to educational qualifications. Where membership in a relevant professional association in the territory of another Member is indicative of the level of competence or extent of experience of the applicant, such membership shall also be given due consideration.

**Paragraph 27:** The delegation of the United States would like to discuss the requirement to give due consideration to professional experience and membership in a professional association in the territory of another Member.

**Paragraph 28:** The delegation of the United States would like to discuss the requirement to inform applicants who do not meet qualification requirements of the "requirements to meet the deficiency...[including]...course work, examinations, training and work experience," and the requirement, "where appropriate," to allow applicants to fulfil such requirements in the home, host or any third jurisdiction.

**Paragraph 29:** The delegation of the United States would like to discuss the prohibition on non-discriminatory residence requirements in connection with assessment of qualification requirements.

**Paragraph 30:** The delegation of Chinese Taipei proposes to re-draft paragraph 30 as follows:

30. **Once qualification requirements have been fulfilled and, where applicable, licenses have been granted, each Member shall ensure that a supplier is allowed to supply the service without undue delay in accordance with the terms and conditions specified in the license.**

**Paragraph 30:** The delegation of the United States suggests discussion of the requirement that Members "ensure that a service supplier is allowed to supply the service" once it has met qualification and licensing requirements.

**Paragraph 31:** The delegation of Switzerland suggests the following addition (in bold):

31. Each Member shall ensure that qualification procedures are as simple as possible and do not in themselves constitute a restriction on the supply of services. **Each Member shall ensure that no procedures are imposed other than necessary to verify compliance with qualification requirements by the applicant.**

**Paragraph 32:** The delegation of Chinese Taipei proposes to re-draft paragraph 32 as follows:

**32. As far as practicable, an applicant should not be required to approach more than one competent authority for qualification procedures.**

**Paragraph 33:** The delegation of Chinese Taipei proposes to re-draft paragraph 33 as follows:

**33. An applicant should, where feasible, be permitted to submit an application at any time.**

**Paragraph 33:** The delegation of the United States suggests discussion of the requirement to allow submission of "applications" (unclear what sort of application this refers to) "at any time."

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