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**COMMUNICATION FROM INDIA**

GATS ARTICLE VI:4 - DISCIPLINES FOR SUPPLY OF A SERVICE THROUGH THE PRESENCE OF A  
NATURAL PERSON OF A MEMBER IN THE TERRITORY OF ANOTHER MEMBER

*Revision*

The following communication, dated 8 March 2019, from the delegation of India is being circulated to the Members of the Working Party on Domestic Regulation.

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**GATS ARTICLE VI:4 - DISCIPLINES FOR SUPPLY OF A SERVICE THROUGH THE PRESENCE OF A NATURAL PERSON OF A MEMBER IN THE TERRITORY OF ANOTHER MEMBER**

**DRAFT FOR DISCUSSION**

**I. INTRODUCTION**

1. Pursuant to Article VI:4 of the GATS, Members have agreed to the following disciplines on domestic regulation which apply only to domestic regulation for the supply of a service through the presence of a natural person of a Member in the territory of another Member.

2. 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 or any particular regulatory provisions in domestic regulation.

3. Members recognize the difficulties which may be faced by individual developing country Members and in particular the least-developed country Members, in implementing disciplines on domestic regulation. Members also recognize the difficulties which may be faced by service suppliers, particularly those of least-developed country Members and developing country Members, in complying with measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards of other Members.

**II. DEFINITIONS**

4. "Licensing requirements" are substantive requirements, other than qualification requirements, with which a natural person is required to comply in order to obtain, amend or renew authorization to supply a service.

5. "Licensing procedures" are administrative or procedural rules that a natural person, seeking authorization to supply a service, including the amendment or renewal of a licence, must adhere to in order to demonstrate compliance with licensing requirements.

6. "Qualification requirements" are substantive requirements relating to the competence of a natural person in relation to the supply a service, and which are required to be demonstrated for the purpose of obtaining authorization to supply a service.

7. "Qualification procedures" are administrative or procedural rules that a natural person must adhere to in order to demonstrate compliance with qualification requirements, for the purpose of obtaining authorization to supply a service.

8. "Technical standards" are measures that lay down the characteristics of a service or the manner in which it is supplied. Technical standards also include the procedures relating to the enforcement of such standards.

**III. GENERAL PROVISIONS**

9. These disciplines apply to measures by Members relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services through presence of natural persons where specific commitments are undertaken. They do not apply to measures to the extent that they constitute limitations subject to scheduling under Article XVI or XVII.

10. To ensure that these measures by Members do not in themselves constitute an unjustifiable impediment to the movement of natural persons, these disciplines shall also apply to application procedures and requirements for temporary entry of a service supplier related to fulfilment of domestic regulations under Article VI:4.

11. Measures relating to licensing requirements and procedures, qualification requirements and procedures, technical standards, and application procedures and requirements for temporary entry shall be based on objective and transparent criteria that are relevant to the supply of the services to which they apply, such as competence and ability to supply a service.

12. Nothing in these disciplines prevents Members from exercising the right to introduce or maintain regulations in order to ensure provision of universal service, in a manner consistent with their obligations and commitments under the GATS.

#### **IV. TRANSPARENCY**

13. Each Member shall publish promptly, through printed or preferably electronic means, in one of the official languages of the WTO measures of general application relating to licensing requirements and procedures, qualification requirements and procedures, technical standards, and application procedures and requirements for temporary entry related to domestic regulations under Article VI:4, as well as detailed information regarding these measures. This information shall include, *inter alia*, where it exists:

- (a) contact information of relevant competent authorities;
- (b) applicable licensing requirements and criteria, terms and conditions of licences, and licensing procedures and fees;
- (c) applicable qualification requirements, criteria and procedures for verification and assessment of qualifications including fees;
- (d) applicable technical standards;
- (e) procedures for processing applications for temporary entry of service suppliers;
- (f) procedures relating to appeals or reviews of applications;
- (g) procedures for monitoring, or enforcing compliance with the terms and conditions of licences or qualifications;
- (h) where practicable, opportunities for public involvement, such as through hearings or comment; and
- (i) the indicative timeframe for processing of an application.

Where publication is not practicable, such information shall be made otherwise publicly available.

14. Each Member shall maintain or establish appropriate mechanisms for responding to enquiries from any service suppliers regarding any measures relating to licensing requirements and procedures, qualification requirements and procedures, technical standards and related application procedures and requirements for temporary entry. Such enquiries may be addressed through the enquiry and contact points established under Articles III and IV of the GATS or any other mechanisms as appropriate.

15. To the extent practicable, and in a manner consistent with its legal system for adoption of measures, each Member should endeavour to:

- (a) ensure that any measures of general application it proposes to adopt in relation to matters falling within the scope of these disciplines, including related application procedures and requirements for temporary entry of service suppliers, are published in advance; and
- (b) provide reasonable opportunities for service suppliers to comment on such proposed measures.

16. The competent authority of a Member may consider the comments, as appropriate, and it is understood that the submission of comments does not oblige such authority to accept them, in whole or in part, or to provide any individualized or collective response or reaction to the same.

## **V. LICENSING AND QUALIFICATION REQUIREMENTS**

17. Where a Member imposes licensing or qualification requirements for the supply of a service, it shall ensure that adequate procedures exist to enable an applicant to fulfill such requirements.

18. In verifying and assessing qualifications and licensing requirements, the competent authority shall give due consideration to relevant professional experience of the applicant as a complement to educational qualifications. Where the competent authority considers that 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.

19. Provided an applicant has presented all necessary supporting evidence of qualifications and licensing, the competent authority shall identify any deficiency and inform the applicant of requirements to meet the deficiency. Such requirements may include, *inter alia*, course work, examinations, training, and work experience. Where appropriate, each Member shall allow applicants to fulfill such requirements in the home, host or any third jurisdiction.

20. Once qualification requirements and any applicable licensing requirements have been fulfilled, each Member shall ensure that a service supplier is allowed to supply the service without undue delay, subject to the applicable terms and conditions.

21. Each Member shall afford adequate opportunities and mechanisms to other Members, especially developing country Members and in particular the least-developed country Members, to negotiate their accession to agreements or arrangements pertaining to recognition as referred to in Article VII:1 of the GATS. The Council for Trade in Services shall regularly monitor implementation of these agreements or arrangements.

## **VI. LICENSING AND QUALIFICATION PROCEDURES**

22. Each Member shall ensure that licensing and qualification procedures are simple, reasonable and clear for applicants to demonstrate whether they meet the relevant licensing or qualification requirements.

23. Each Member shall ensure that the licensing and qualification procedures used by, and the related decisions of, the competent authority are impartial with respect to all applicants.

24. Each Member shall, to the extent practicable, not require physical presence in the territory of a Member for the submission of an application for a license or qualification.

25. Each Member shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority per application for a licence or for qualification procedures. A Member may require multiple applications for such licence or qualification procedures, where a service is within the jurisdiction of multiple competent authorities.

26. An applicant should be permitted to submit an application at any time, except where licences are limited in numbers, including in public tendering. Where specific time periods for applications exist, an applicant shall be allowed a reasonable period for the submission of an application. The competent authority shall, to the extent practicable, initiate the processing of an application without undue delay. Where domestic law permits, the competent authority shall accept authenticated copies in print and electronic formats, in place of original documents, unless they require original documents to protect the integrity of the qualification and/or licensing process. Competent authorities, to the extent practicable, should also endeavour to accept applications in electronic format, which are in accordance with the Member's domestic law.

27. In the case of an application considered complete under domestic laws and regulations, within a reasonable period of time after the submission of the application, ensure that the processing

of the application is completed, and that the applicant is informed of the decision concerning the application, and to the extent possible in writing. Each Member shall endeavour to the extent practicable to provide an estimation of the timeframe for processing of an application. In case of pending applications, the competent authorities of a Member shall, at the request of the applicant, provide without undue delay information concerning the status of the application.

28. Where the competent authority considers that an application is incomplete and/or determines that it needs additional information to reach a decision for the application to be considered complete, it shall, to the extent practicable, within a reasonable period of time:

- (a) inform the applicant;
- (b) identify the additional information required to complete the application; and
- (c) provide the opportunity to correct deficiencies;

where none of the above is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time.

29. If the competent authority rejects an application, it shall inform the applicant without undue delay, and to the extent practicable in writing. To the extent practicable, it should endeavour to inform the applicant, either upon its own initiative or upon request, of the reasons for rejection of the application and where possible, any deficiencies that have been identified. It should inform the applicant of the timeframe and of the procedures for any available appeal against the decision. It should permit an applicant to resubmit an application in accordance with the relevant authority's established procedures, except where the relevant authority limits the number of licences or qualification determinations. It shall permit an applicant to resubmit an application within reasonable time limits subject to fulfilment of prescribed requirements and procedures and availability and/or eligibility. An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.

30. Each Member shall ensure that a licence, once granted, enters into effect without undue delay in accordance with its terms and conditions. Each Member shall also ensure that, once qualification requirements and any applicable licensing requirements have been fulfilled, a service supplier is allowed to supply the service without undue delay. This is without prejudice to the fulfilment of any requirements other than the applicable qualification and licensing requirements.

31. Each Member shall ensure that application and processing fees related to licensing and qualification procedures are reasonable and transparent.

32. Where examinations are required, the competent authority of a Member shall schedule such examinations at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. Each Member shall, to the extent practicable, having regard to the cost and administrative burden involved, encourage the competent authorities to use electronic means for conducting such examinations and to provide opportunities for conducting such examinations from the home country of the applicant.

## **VII. TECHNICAL STANDARDS**

33. Each Member shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage anybody designated to develop technical standards to use open and transparent processes.

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**VIII. APPLICATION PROCEDURES AND REQUIREMENTS FOR TEMPORARY ENTRY**

34. Each Member shall process as expeditiously as possible, applications for temporary entry of natural persons of another Member, including requests for extensions of stay.<sup>1</sup>

35. Each Member shall, upon receiving an application, within a reasonable period of time notify applicants of the following particulars:

- (a) receipt of the application;
- (b) status of the application upon request;
- (c) indicative time-frame for processing of the application; and
- (d) decision on the application, including the period of stay and other conditions.

36. In case of an incomplete application, each Member shall notify promptly the applicant of the additional information required. Where practicable, each Member shall provide for the prompt review of and appropriate remedies for administrative decisions affecting such temporary entry.

37. Each Member shall ensure that the fees charged by its competent authorities for the processing of an application for temporary entry are reasonable and transparent, and do not in themselves restrict the supply of the relevant service through the movement of natural persons.

38. Each Member shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of applications, particularly where additional information is required to be submitted for processing.

39. Each Member shall ensure that application procedures are transparent and not unnecessarily burdensome.

**IX. TRANSITION**

40. A developing country Member shall not be required to apply these disciplines for a period of [X] years from their date of entry into force. This period shall be applicable for a graduated LDC from the date of graduation from LDC status. Before the end of this transitional time period, upon request by a developing country Member, the Council for Trade in Services may extend the time period to implement these disciplines.

41. Where circumstances allow for the phased introduction of new licensing requirements and procedures, qualification requirements and procedures, and technical standards, Members shall consider longer phase-in periods for such measures in service sectors of export interest to developing country Members.

42. LDCs shall not be required to apply these disciplines. LDCs are nonetheless encouraged to apply these disciplines, to the extent compatible with their special economic situation and their development, trade and financial needs.

**X. DEVELOPMENT**

43. A Member may accord reduced administrative fees to service suppliers from developing country Members.

44. Developed country Members, and to the extent possible other Members, shall provide technical assistance to developing country Members and in particular least-developed country

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<sup>1</sup> 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.

Members (LDCs), upon their request and on mutually agreed terms and conditions. Technical assistance shall be aimed, *inter alia* at:

- (a) developing and strengthening institutional and regulatory capacities to regulate the supply of services and to implement these disciplines;
- (b) assisting developing country and in particular LDC service suppliers to meet the relevant requirements and procedures in export markets;
- (c) facilitating the establishment of technical standards and participation of developing country Members and in particular LDCs facing resource constraints in the relevant international organizations; and
- (d) assisting through public or private bodies and relevant international organizations, service suppliers of developing country Members in building their supply capacity and in complying with domestic regulation in their markets. Such assistance may also be provided directly to the respective service suppliers.

## **XI. INSTITUTIONAL PROVISIONS**

45. The Council for Trade in Services shall establish a Committee on Domestic Regulation for Mode 4 to oversee the implementation of these disciplines and the operation of Article VI of the GATS including any further work under Article VI:4 of the GATS.

46. The Council for Trade in Services shall, upon request from any Member, review the operation of these disciplines and make recommendations as appropriate.

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## **ANNEX**

*Please find attached a redline version of document S/WPDR/W/61/Rev.1, showing changes compared to the original document, S/WPDR/W/61.*

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### **GATS ARTICLE VI:4 - DISCIPLINES FOR SUPPLY OF A SERVICE THROUGH THE PRESENCE OF A NATURAL PERSON OF A MEMBER IN THE TERRITORY OF ANOTHER MEMBER**

#### **DRAFT FOR DISCUSSION**

#### **I. INTRODUCTION**

1. Pursuant to Article VI:4 of the GATS, Members have agreed to the following disciplines on domestic regulation which apply only to domestic regulation for the supply of a service through the presence of a natural person of a Member in the territory of another Member.
2. 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 or any particular regulatory provisions in domestic regulation.
3. Members recognize the difficulties which may be faced by individual developing country Members and in particular the least-developed country Members, in implementing disciplines on domestic regulation. Members also recognize the difficulties which may be faced by service suppliers, particularly those of least-developed country Members and developing country Members, in complying with measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards of other Members.

#### **II. DEFINITIONS**

4. "Licensing requirements" are substantive requirements, other than qualification requirements, with which a natural person is required to comply in order to obtain, amend or renew authorization to supply a service.
5. "Licensing procedures" are administrative or procedural rules that a natural person, seeking authorization to supply a service, including the amendment or renewal of a licence, must adhere to in order to demonstrate compliance with licensing requirements.
6. "Qualification requirements" are substantive requirements relating to the competence of a natural person in relation to the supply a service, and which are required to be demonstrated for the purpose of obtaining authorization to supply a service.
7. "Qualification procedures" are administrative or procedural rules that a natural person must adhere to in order to demonstrate compliance with qualification requirements, for the purpose of obtaining authorization to supply a service.
8. "Technical standards" are measures that lay down the characteristics of a service or the manner in which it is supplied. Technical standards also include the procedures relating to the enforcement of such standards.

### III. GENERAL PROVISIONS

9. These disciplines apply to measures by Members relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services through presence of natural persons where specific commitments are undertaken. They do not apply to measures to the extent that they constitute limitations subject to scheduling under Article XVI or XVII.

10. To ensure that these measures by Members do not in themselves constitute an unjustifiable impediment to the movement of natural persons, these disciplines shall also apply to application procedures and requirements for temporary entry of a service supplier related to fulfilment of domestic regulations under Article VI:4.

~~10-11.~~ Measures relating to licensing requirements and procedures, qualification requirements and procedures, ~~and~~ technical standards, and application procedures and requirements for temporary entry shall be based on objective and transparent criteria that are relevant to the supply of the services to which they apply, such as competence and ability to supply a service.

~~11-12.~~ Nothing in these disciplines prevents Members from exercising the right to introduce or maintain regulations in order to ensure provision of universal service, in a manner consistent with their obligations and commitments under the GATS.

### IV. TRANSPARENCY

~~12-13.~~ Each Member shall publish promptly, through printed or preferably electronic means, in one of the official languages of the WTO measures of general application relating to licensing requirements and procedures, qualification requirements and procedures, ~~and~~ technical standards, and application procedures and requirements for temporary entry related to domestic regulations under Article VI:4, as well as detailed information regarding these measures. This information shall include, *inter alia*, where it exists:

- (a) contact information of relevant competent authorities;
- (b) applicable licensing requirements and criteria, terms and conditions of licences, and licensing procedures and fees;
- (c) applicable qualification requirements, criteria and procedures for verification and assessment of qualifications including fees;
- (d) applicable technical standards;
- (e) procedures for processing applications for temporary entry of service suppliers;
- ~~(e)(f)~~ procedures relating to appeals or reviews of applications;
- ~~(f)(g)~~ procedures for monitoring, or enforcing compliance with the terms and conditions of licences or qualifications;
- ~~(g)(h)~~ where practicable, opportunities for public involvement, such as through hearings or comment; and
- (i) the indicative timeframe for processing of an application.

Where publication is not practicable, such information shall be made otherwise publicly available.

~~13-14.~~ Each Member shall maintain or establish appropriate mechanisms for responding to enquiries from any service suppliers regarding any measures relating to licensing requirements and procedures, qualification requirements and procedures, ~~and~~ technical standards and related application procedures and requirements for temporary entry. Such enquiries may be addressed through the enquiry and contact points established under Articles III and IV of the GATS or any

other mechanisms as appropriate.

~~14-15.~~ To the extent practicable, and in a manner consistent with its legal system for adoption of measures, each Member ~~shall~~ should endeavour to:

- (a) ensure that any measures of general application it proposes to adopt in relation to matters falling within the scope of these disciplines, including related application procedures and requirements for temporary entry of service suppliers, are published in advance; and
- (b) provide reasonable opportunities for service suppliers to comment on such proposed measures.

~~15-16.~~ The competent authority of a Member may consider the comments, as appropriate, and it is understood that the submission of comments does not oblige such authority to accept them, in whole or in part, or to provide any individualized or collective response or reaction to the same.

## **V. LICENSING AND QUALIFICATION REQUIREMENTS**

~~16-17.~~ Where a Member imposes licensing or qualification requirements for the supply of a service, it shall ensure that adequate procedures exist to enable an applicant to fulfill such requirements.

~~17-18.~~ In verifying and assessing qualifications and licensing requirements, the competent authority shall give due consideration to relevant professional experience of the applicant as a complement to educational qualifications. Where the competent authority considers that 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.

~~18-19.~~ Provided an applicant has presented all necessary supporting evidence of qualifications and licensing, the competent authority shall identify any deficiency and inform the applicant of requirements to meet the deficiency. Such requirements may include, *inter alia*, course work, examinations, training, and work experience. Where appropriate, each Member shall allow applicants to fulfill such requirements in the home, host or any third jurisdiction.

~~19-20.~~ Once qualification requirements and any applicable licensing requirements have been fulfilled, each Member shall ensure that a service supplier is allowed to supply the service without undue delay, subject to the applicable terms and conditions.

~~20-21.~~ Each Member shall afford adequate opportunities and mechanisms to other Members, especially developing country Members and in particular the least-developed country Members, to negotiate their accession to agreements or arrangements pertaining to recognition as referred to in Article VII:1 of the GATS. The Council for Trade in Services shall regularly monitor implementation of these agreements or arrangements.

## **VI. LICENSING AND QUALIFICATION PROCEDURES**

~~21-22.~~ Each Member shall ensure that licensing and qualification procedures are simple, reasonable and clear for applicants to demonstrate whether they meet the relevant licensing or qualification requirements.

~~22-23.~~ Each Member shall ensure that the licensing and qualification procedures used by, and the related decisions of, the competent authority are impartial with respect to all applicants.

24. Each Member shall, to the extent practicable, not require physical presence in the territory of a Member for the submission of an application for a license or qualification.

~~23-25.~~ Each Member shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority per application for a licence or for qualification procedures. A Member may require multiple applications for such licence or qualification procedures, where a service is within the jurisdiction of multiple competent authorities.

~~24-26.~~ An applicant should be permitted to submit an application at any time, except where licences are limited in numbers, including in public tendering. Where specific time periods for applications exist, an applicant shall be allowed a reasonable period for the submission of an application. The competent authority shall, to the extent practicable, initiate the processing of an application without undue delay. ~~To the extent practicable, competing authorities of Members should endeavour to accept applications in electronic format which are authenticated in accordance with the Member's domestic law, in place of original documents, unless they require original documents to protect the integrity of the qualification and/ or licensing process. Where domestic law permits, the competent authority shall accept authenticated copies in print and electronic formats, in place of original documents, unless they require original documents to protect the integrity of the qualification and/ or licensing process. Competent authorities, to the extent practicable, should also endeavour to accept applications in electronic format, which are in accordance with the Member's domestic law.~~

27. In the case of an application considered complete under domestic laws and regulations, within a reasonable period of time after the submission of the application, ensure that the processing of the application is completed, and that the applicant is informed of the decision concerning the application, and to the extent possible in writing. Each Member shall endeavour to the extent practicable to provide an estimation of the timeframe for processing of an application. In case of pending applications, the competent authorities of a Member shall, at the request of the applicant, provide without undue delay information concerning the status of the application.

~~25-28.~~ Where the competent authority considers that an application is incomplete and/or determines that it needs additional information to reach a decision for the application to be considered complete, it shall, to the extent practicable, within a reasonable period of time:

- (a) inform the applicant;
- (b) identify the additional information required to complete the application; and
- (c) provide the opportunity to correct deficiencies;

where none of the above is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time.

~~26.~~ Each Member shall, to the extent practicable, ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application. Each Member shall endeavour to the extent practicable to provide an estimation of the timeframe for processing of an application.

~~27-29.~~ If the competent authority rejects an application, it shall inform the applicant without undue delay, and to the extent practicable in writing. To the extent practicable, it should endeavour to inform the applicant, either upon ~~their~~ its own initiative or upon request, of the reasons for rejection of the application and where possible, any deficiencies that have been identified. It should inform the applicant of the timeframe and of the procedures for any available appeal against the decision. It should permit an applicant to resubmit an application in accordance with the relevant authority's established procedures, except where the relevant authority limits the number of licences or qualification determinations. It shall permit an applicant to resubmit an application within reasonable time limits subject to fulfilment of prescribed requirements and procedures and availability and/or eligibility. An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.

~~28.~~ The competent authority shall, to the extent its domestic law permits, accept authenticated copies in place of original documents.

~~29.~~ In the case of an application considered complete under domestic laws and regulations, within a reasonable period of time after the submission of the application, ensure that the processing of the application is completed, and that the applicant is informed of the decision concerning the application, and to the extent possible in writing. Each Member shall endeavour to the extent practicable to provide an estimation of the timeframe for processing of an application. In case of pending applications, the competent authorities of a Member shall, at the request of the applicant, provide without undue delay information concerning the status of the application.

30. Each Member shall ensure that a licence, once granted, enters into effect without undue delay in accordance with its terms and conditions. Each Member shall also ensure that, once qualification requirements and any applicable licensing requirements have been fulfilled, a service supplier is allowed to supply the service without undue delay. This is without prejudice to the fulfilment of any requirements other than the applicable qualification and licensing requirements.

31. Each Member shall ensure that application and processing fees related to licensing and qualification procedures are reasonable and transparent.

32. Where examinations are required ~~for qualification procedures~~, the competent authority of a Member shall schedule such examinations at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. Each Member shall, to the extent practicable, having regard to the cost and administrative burden involved, encourage the competent authorities to use electronic means for conducting such examinations and to provide opportunities for conducting such examinations from the home country of the applicant.

## **VII. TECHNICAL STANDARDS**

33. Each Member shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage anybody designated to develop technical standards to use open and transparent processes.

## **VIII. APPLICATION PROCEDURES AND REQUIREMENTS FOR TEMPORARY ENTRY**

34. Each Member shall process as expeditiously as possible, applications for temporary entry of natural persons of another Member, including requests for extensions of stay.<sup>1</sup>

35. Each Member shall upon receiving an application, within a reasonable period of time notify applicants of the following particulars:

- (a) receipt of the application;
- (b) status of the application upon request;
- (c) indicative time-frame for processing of the application; and
- (d) decision on the application, including the period of stay and other conditions.

36. In case of an incomplete application, each Member shall notify promptly the applicant of the additional information required. Where practicable, each Member shall provide for the prompt review of and appropriate remedies for administrative decisions affecting such temporary entry.

37. Each Member shall ensure that the fees charged by its competent authorities for the processing of an application for temporary entry are reasonable and transparent, and do not in themselves restrict the supply of the relevant service through the movement of natural persons.

38. Each Member shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of applications, particularly where additional information is required to be submitted for processing.

39. Each Member shall ensure that application procedures are transparent and not unnecessarily burdensome.

## **IX. VIII. TRANSITION**

34-40. A developing country Member shall not be required to apply these disciplines for a period of [X] years from their date of entry into force. This period shall be applicable for a graduated LDC

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<sup>1</sup> 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.

from the date of graduation from LDC status. Before the end of this transitional time period, upon request by a developing country Member, the Council for Trade in Services may extend the time period to implement these disciplines.

~~35-41.~~ Where circumstances allow for the phased introduction of new licensing requirements and procedures, qualification requirements and procedures, and technical standards, Members shall consider longer phase-in periods for such measures in service sectors ~~and modes of supply~~ of export interest to developing country Members.

~~36-42.~~ LDCs shall not be required to apply these disciplines. LDCs are nonetheless encouraged to apply these disciplines, to the extent compatible with their special economic situation and their development, trade and financial needs.

## **~~IX.~~ DEVELOPMENT**

~~37-43.~~ A Member may accord reduced administrative fees to service suppliers from developing country Members.

~~38-44.~~ Developed country Members, and to the extent possible other Members, shall provide technical assistance to developing country Members and in particular least-developed country Members (LDCs), upon their request and on mutually agreed terms and conditions. Technical assistance shall be aimed, *inter alia* at:

- (a) developing and strengthening institutional and regulatory capacities to regulate the supply of services and to implement these disciplines;
- (b) assisting developing country and in particular LDC service suppliers to meet the relevant requirements and procedures in export markets;
- (c) facilitating the establishment of technical standards and participation of developing country Members and in particular LDCs facing resource constraints in the relevant international organizations; and
- (d) assisting through public or private bodies and relevant international organizations, service suppliers of developing country Members in building their supply capacity and in complying with domestic regulation in their markets. Such assistance may also be provided directly to the respective service suppliers.

## **~~XI.~~ INSTITUTIONAL PROVISIONS**

~~39-45.~~ The Council for Trade in Services shall establish a Committee on Domestic Regulation for Mode 4 to oversee the implementation of these disciplines ~~and the operation of Article VI of the GATS as well as including~~ any further work under Article VI:4 of the GATS.

~~40-46.~~ The Council for Trade in Services shall, upon request from any Member, review the operation of these disciplines and make recommendations as appropriate.