UNCTAD workshop on

Recognition of qualifications to facilitate movement of natural persons

Co-organized by UNCTAD-ACP Secretariat

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Key WTO provisions on recognition of qualifications and MRAs

by

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Procedures for verifying professional competence (GATS Article VI:6)

• Where a Member government has undertaken specific commitments regarding professional services (e.g. architectural services or legal services)
  – that country is required to have “adequate procedures” to verify the competence of those professionals from all other WTO Members.
  – Avoid undermining MA commitments
  – Members determine the type of procedure to be applied
Recognition
GATS Article VII

Recognition of **foreign education, experience, requirements met, or licenses and certifications** granted

Allows to depart from MFN obligation (non-discrimination among Members), subject to conditions:

- Non-discrimination among countries (in the application of standards/criteria for authorization, licensing, certification)

- **Transparency** requirements: Notify /inform the WTO (opening of negotiations/ adoption of new recognition measures or when significantly modifying existing ones)

- Afford adequate opportunity for other interested Members to join or negotiate comparable agreements
Recognition
GATS Article VII

- **Transparency** requirements: Notify /inform the WTO

**Notification Format** S/L/5:

- Notifying Member
- Date of entry into force
- Duration
- Agency responsible for enforcement
- Description of the measure
- Members specifically affected (if any)
- Contact for obtaining measure

Notifications are sent to: Central Registry of Notifications (CRN) – can also be sent to TSD
Guidelines for MRA in the Accountancy sector (S/L/38) - 1997

- Their objective is to **make it easier for parties to negotiate recognition agreements** and for third parties to join
- They give recommendations on the form and content of MRAs in accountancy
- The aim was to set out a checklist of items that **would lead to greater transparency in the negotiation, conclusion and content of MRAs**
- They are voluntary and non-binding
- Work between 96-97
Main elements:

A. **Conduct of negotiations**: Specifies certain information to be supplied to the WTO in the context of opening negotiations

B. **Form and content of the agreement**:
   - Identify participants, purpose and scope
   - Specify the conditions to be met for recognition and the level of equivalence: eligibility for recognition, “compensatory measures”.
Main elements:

B. Form and content of the agreement:

• Mechanisms for implementation (monitoring, enforcing, cooperation between the parties, focal points)
• MRA should include provisions on: length of procedures for processing applications, documentation required, fees, commitments on examinations (reasonable periodicity), information on assistance
• Licensing requirements and other conditions (e.g. good conduct, language requirements)
MRAs – General features

• Many are between neighbouring countries/, for instance, as part of broader regional cooperation or RTAs (e.g. EU, NAFTA, EAC, ASEAN, NZ-Australia), but is not always the case

• As to MRAs in RTAs - Most RTA provisions on MRAs are based on the GATS

• In many cases, RTAs do not provide for recognition, but simply state that MRAs will be concluded in the future

• Generally, those RTAs specify/identify priority professions (in most cases architecture, engineering, accounting, also some include nursing)

• In many cases, implementation of MRAs under RTAs continues as “work in progress”
Disciplines on Domestic Regulation in Accountancy (S/L/64)

- Additional disciplines which would apply only to accountancy and only where a Member has made commitments
- But possibility to extending the disciplines to other professional services
- The Disciplines were agreed in 1998, but have not yet entered into force (subject to conclusion of Doha negotiations)
- They cover licensing requirements and procedures, qualification requirements and procedures, and technical standards
- Not more restrictive than necessary to fulfil a legitimate objective
- Disciplines licensing requirements/procedures, qualification requirements and procedures (e.g. examinations)
- They refer to MRA – and their role in facilitating the process of verification of qualifications
Regulatory Disciplines... to be developed (Article VI:4) work in progress

- To ensure that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade

- Such disciplines shall aim to ensure that these are, *inter alia*:
  
  (a) based on objective and transparent criteria

  (b) not more burdensome than necessary

  (c) in the case of licensing procedures, not in themselves a restriction on supply

- Working Party on Domestic Regulations (WPDR) – 1999
Take away

- MRAs can contribute to facilitate trade in professional services
- Challenges (domestic level):
  - Absence of systems against which equivalence can be judged / difficult to calculate equivalence
  - Resource intensive / lack of information
  - Domestic coordination (different authorities)
  - Lack of awareness / involve relevant stakeholders
  - Complementarity/coherence (e.g. MA/recog.)
- International level: more transparency of recognition schemes, MRAs, exchange of experience, best practices/ other?
Thank you!

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