

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



Guidelines for MRA in the Accountancy sector (S/L/38)

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”.

Guidelines for MRA in the Accountancy sector (S/L/38)

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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