

PRINCIPLES FOR LIBERALISATION OF TRADE IN LEGAL SERVICES

Bearing in mind the general principles set out in the General Agreement on Trade in Services (GATS) of MFN (non-discrimination between countries), national treatment (non-discrimination between domestic and foreign entities), and transparency, as well as the other matters provided for, and the four modes of delivery for a services described in the Agreement, the following guiding principles appear particularly relevant to achieving liberalisation of trade in legal services:

1. Formal recognition, on reasonable terms, of the right to practise home-country law, international law, and where qualified, third-country law, without the imposition of additional or different practice limitations by the host country (eg, a minimum number of years of professional experience or a refusal to recognise concurrent practice rights where the foreign lawyer's home country is a federal jurisdiction).
2. Formal recognition, on reasonable terms, of the right of foreign law firms to establish a commercial presence in a country or economy without quota or other limitations concerning professional and other staff, location, number and forms of commercial presence, and the name of the firm.
3. Formal recognition, on reasonable terms, of the right of foreign law firms and lawyers to enter freely into fee-sharing arrangements or other forms of professional or commercial association, including partnership with international and local law firms and lawyers.
4. The right to practise local law to be granted on the basis of knowledge, ability and professional fitness only, and this to be determined objectively and fairly through a transparent process.
5. Formal recognition of the right, on reasonable terms, of a foreign law firm to employ local lawyers and other staff.
6. Formal recognition of the right to prepare and appear in an international commercial arbitration.

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