

ANNEX 8C

PROFESSIONAL SERVICES

Objectives

1. The objectives of this Annex are to:
 - (a) encourage the development of systems for the recognition of professional qualifications, licensing or registration of professionals;
 - (b) encourage collaboration between accreditation, regulatory and professional bodies of two or more Parties to share knowledge and expertise in advancing the development of best practice in the accreditation and regulation of professions; and
 - (c) encourage professions to engage in advancing the liberalisation of international trade in professional services.

Principles for the Regulation of Professional Services

2. The Parties recognise that professional services play an essential role in facilitating trade and investment across both goods and services sectors and in promoting economic growth and business confidence.

3. Subject to each Party's services-related commitments in Annex 2 (Schedules of Specific Commitments for Services) or Annex 3 (Schedules of Reservations and Non-Conforming Measures for Investment and Services) and where there is mutual interest to do so, each Party shall encourage its relevant bodies to consider exploring the possibility of providing a framework that may include one or more of the following elements, subject to its laws and regulations:

- (a) permits professionals of another Party visiting the host Party on a temporary basis for business purposes to provide professional services on the basis of their right to provide those services in their home territory;
- (b) provides for, where relevant, the application of local ethical, conduct and disciplinary standards to professionals of another Party in a manner that is no more burdensome for professionals of another Party than the requirements imposed on professionals of the host Party in that professional services sub-sector;
- (c) has sufficient flexibility, where professional indemnity insurance available to local professionals cannot be accessed by professionals of other Parties in the host Party, to provide a right for professionals of other Parties to either use their home-country professional indemnity insurance or disclose to clients their status as a professional of another Party and the extent of their professional indemnity insurance or that they lack such insurance;
- (d) allows for all modes of providing professional services to be accommodated, including:
 - (i) on a temporary fly-in, fly-out basis;
 - (ii) on a cross-border basis through the use of telecommunications technology;
 - (iii) by establishing a commercial presence; and
 - (iv) through a combination of fly-in, fly-out and one or both of the other modes listed in Sub-subparagraphs (ii) and (iii);

- (e) permits professionals of another Party or Parties and of the host Party to work together in the delivery of professional services; and
- (f) permits professional services firms of another Party or other Parties, subject to the host Party's laws and regulations on the use of firm names, to use a firm name of their choice.

4. Each Party may consider, if feasible, implementing without the need for further written examination, procedures for the temporary, limited or project-specific licensing of professional service suppliers of another Party or other Parties. Such a regime should not operate to prevent a professional of another Party from gaining a local licence once that professional satisfies the applicable local licensing requirements.

Recognition of Professional Qualifications, Licensing and Registration

5. If access to or pursuit of a profession that is regulated by a relevant body of a host Party is contingent on possession of specific professional qualifications or experience, that host Party shall encourage its relevant bodies to administer relevant systems in a manner that is as transparent and streamlined as possible, and that is not disproportionately complex or burdensome on professional service suppliers of other Parties seeking access to or pursuit of that profession in its jurisdiction.

6. Each Party shall encourage its relevant bodies to negotiate with the relevant bodies of another Party or other Parties on any form of arrangements for the mutual recognition of professional qualifications, licensing or registration in professional services sectors of mutual interest.

7. Each Party shall consult with its relevant bodies to identify professional services where two or more Parties are

mutually interested in establishing dialogue on issues that relate to the recognition of professional qualifications, licensing or registration.

8. Each Party shall encourage its relevant bodies to take into account existing international agreements that relate to professional services in the development of mutual recognition or similar arrangements on the recognition of professional qualifications, licensing or registration.

9. Nothing in this Annex shall prevent a Party from requiring that natural persons seeking to supply a professional service possess the necessary qualifications or professional experience specified in the jurisdiction of the Party where the service is supplied.

Professional Services Working Group

10. The Parties hereby establish a Professional Services Working Group (the “Working Group”) composed of representatives of each Party to advance the objectives of this Annex.

11. The Working Group shall, as appropriate, support the Parties’ relevant professional and regulatory bodies in pursuing the objectives of this Annex. This support may include providing points of contact, facilitating meetings and providing information regarding regulation of professional services in each Party’s territory.

12. The Working Group may consider, particularly with a view to facilitating the adoption of mutual recognition agreements by relevant bodies with limited resources, the development of guidelines for mutual recognition agreements.

13. The Working Group shall endeavour to meet within 12 months of the date of entry into force of the Second Protocol, and thereafter as agreed by the Working Group. For a meeting to be held, at least two Parties must participate. It is not

necessary for representatives of all Parties to participate in order to hold a meeting.

14. The Working Group shall report to the FTA Joint Committee on its progress and on the future direction of its work.

15. Decisions of the Working Group shall have effect only in relation to those Parties that participated in the meeting at which the decision was taken, except if:

- (a) otherwise agreed by all Parties; or
- (b) a Party that did not participate in the meeting requests to be covered by the decision and all Parties originally covered by the decision agree.