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Australia's second round GATS offer

1. BACKGROUND

Australia tabled the second round offer in Geneva on 26 May 2005. Australia was among the first member nations to table an improved offer.

The offer is non-binding and can be amended / withdrawn at any time during the negotiations.

2. CONTENT

a) Legal services

There are two changes to facilitate the movement of highly skilled professionals and to increase recognition of foreign qualifications.

First, makes a binding commitment on domestic/host-country law. This means that Australia commits to let foreign lawyers gain admission to practise law in Australia. The offer is consistent with current regulatory regimes across Australia with foreign lawyers still having to first satisfy the admission requirements, applicable in Australia.

Second, grants a limited right to foreign lawyers to provide advisory services in foreign and international law BUT not to provide advisory services in the laws of Australia or appear before Australian courts to represent clients, unless the foreign lawyers have fully satisfied the admission requirements to practise law in Australia.

The impact of the presence of foreign lawyers will facilitate the capacity of Australian law firms to provide multi-jurisdictional legal services. This strong offer therefore helps Australia's bargaining position to push for greater market access for Australian law firms to provide legal services overseas.

b) Telecommunications

The May 2005 offer adjusts commitments on foreign equity limitation and is consistent with current domestic policy arrangements. There are no legislative changes needed.

Intention of the offer is a "demonstration effect" that will encourage other members to make improved offers.

c) Environmental Services

In 1995, Australia included commitments on wastewater (sewerage) services in the schedule. Our 2003 offer had no commitments on water services relating to water collection, purification and distribution for human use. The May offer explicitly excludes water for human use. It clarifies but does NOT extend the existing protections.

d) Private health services

The offer recognises a legislative change about the residency of chiropodists and podiatrists.

e) Freight logistics services

The May offer provides new commitments and clarifications of existing commitments in 3 areas: Air Transport services; rail transport services; other freight logistics services. The government has clarified that the offer does not cover passenger rail services.

f) Construction and related engineering services

The offer contains increased commitments that now cover all forms of building services.

2.1 Movement of people

The May offer applies to temporary entry by skilled workers. It does not affect existing immigration laws. It does not impact on or detract from Australian skill level standards. It removes the Labour Market Testing requirements, but this conforms with current practice.

2.2 Public services

The Government is committed to upholding the right of WTO members to regulate and fund public services. It will not support any new rules or make any offers which cast doubt on that outcome.

Australia will not be making any offers in public health, public education or ownership of water. The environmental services offer clarifies and explicitly excludes water for human use.

The Government will ensure that the outcomes of negotiations do not impair Australia's ability to screen foreign investment proposals and deliver fundamental policy objectives in relation to social and cultural goals.