

## WTO Speaking Points

### CBA Committee

- The Committee has representation from across the country -- Halifax, Montreal, Toronto, Vancouver, Victoria
- Committee has produced a Backgrounder which you should all have received setting out a summary of the issues and the process. This Backgrounder is being posted on the web site, along with a space for members to comment.
- The Committee is currently working on a draft brief for government on how the GATS should treat legal services. The focus will be on the accounting rules which were agreed to about a year and a half ago. The questions will be whether those rules should apply to legal services and, if so, how should they be amended.
- The Committee also anticipates meeting with Canadian government negotiators to put forward the CBA's point of view.

### WTO process

- technically launch starting late this month but because of problems getting agreement in Seattle and US election, likely won't be significant progress this year
- in the meantime, Sergio Marchi is head of Council on Trade in Services
- also, Working Party on Domestic Regulation starting to look at accountancy disciplines and how they might apply to other professions

### Accountancy Rules

- overall question: what is it that's different about the legal profession that accountancy rules should not apply: independence, deal with matters that are more "subjective" and changeable -- laws versus numbers (accountants), building standards (engineers, architects) -- question: any others?
- divided into seven sections: general provisions, transparency, licensing requirements, licensing procedures, qualification requirements, qualification procedures and technical standards
- how does regulation in legal services take into account self-regulating nature of the legal profession and the importance of this in democracies

- overall obligation not to take measures that are more restrictive than necessary to fulfil a legitimate objective; may be a problem because “necessary” in international trade law is a high standard
- transparency - not much of an issue - just says requirements should be publicly available
- licencing requirements - potential problems:
  - residency requirements - members must consider less trade restrictive means - question: what is the rationale for residency standards?
  - firm names - must not restrict except for legitimate objective - question: do our rules about firm names have a legitimate objective
  - membership in professional organizations - must serve legitimate objective - question - how do we deal with mandatory membership in CBA
  - insurance - must take into account foreign lawyers’ existing coverage insofar as it covers activities in its territory - this may be okay as long as insurance company is solvent and people can sue in Canada for claims - question: any other problems?
- licensing procedures - should not be more burdensome than necessary, shall be transparent, applications shall be processed expeditiously - not problematic
- qualification requirements - may be problematic if forces law societies to accept different standards for people practicing host country law
- qualification procedures - again deals with transparency, reasonable time frames, etc. - not problematic
- technical standards - technical standards must be developed only for legitimate objective - doesn’t really apply to lawyers

### **Questions for the future**

- overall approach - balance between protectionism versus Canadian lawyers getting markets abroad; question: what do you favour?
- Canada has the ability to allow certain trade restrictive measures and can divide such measures as between home country, host country and international law, as between modes of service (commercial presence etc.) and as between types of restriction: market access, MFN, national treatment, etc.

- types of issues that might arise: types of establishment that will be allowed (partnership, corporation, sole proprietorship) - question: any concerns about this?