**MULTILATERAL TRADE NEGOTIATIONS THE URUGUAY ROUND**

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**Group of Negotiations on Services**

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# COMMUNICATION FROM NIGERIA

## Conditional Offer by Nigeria of Initial Commitments in the Uruguay Round Negotiations on Trade in Services

The following communication is circulated at the request of the delegation of Nigeria to the Group of Negotiations on Services.

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1. Nigeria presents below its preliminary offer concerning initial commitments on trade in services. This offer is conditional upon a satisfactory conclusion being reached in the negotiations aimed at establishing a General Agreement on Trade in Services and the achievement of balanced global results in the Uruguay Round negotiations.

2. For Nigeria, a satisfactory conclusion in the negotiations on services means the adoption of an Agreement on Trade in Services and Sectoral Annexes, promoting in a balanced manner the interests of all participants on a mutually advantageous basis, which necessarily includes provisions granting special treatment for developing countries.

3. It is also conditional on the inclusion, in the offers of Nigeria's trading partners, of services and modes of delivery that are of export interest to Nigeria, particularly as regards labour mobility.

4. This offer is also conditional upon the Agreement on Trade in Services allowing compliance with the Constitution of the Federal Republic of Nigeria, as well as its development priorities and current commitments under the Structural Adjustment Programme. The import of services into Nigeria, whatever the mode of delivery used, must also comply with the international conventions, agreements and treaties signed by the Nigerian Government, as well as its undertakings in the framework of the African Economic Community and the Economic Community of West African States.

5. Nigeria's offer is further conditional on the satisfactory conclusion of negotiations in other areas of the Uruguay Round of multilateral trade negotiations that are of special interest to Nigeria and accordingly it may be revised, extended, amended or withdrawn in the light of developments in the said negotiations.

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UR-92-0065

6. Nigeria further reserves the right to operate technical changes to this offer and to correct possible errors, omissions or inaccuracies. The present offer will not affect Nigeria's right to adopt the necessary measures requested for the security and development of the country.

7. The offers transmitted herein are understood as valid solely for the services and modes of delivery mentioned in the attached individual lists and to the extent indicated. The commitments on market access and national treatment are subject to the national laws and regulations in force. The offer contains two parts:

PART I: Horizontal Measures - applicable to all sectors covered by the present offer; and

PART II: Sectoral annexes of specific commitments in services trade.

8. The terms, limitations and conditions on market access and the conditions and qualifications on national treatment are specified according to the following interpretation of the four relevant modes of delivery:

| | |
|---|---|
| Cross-border trade: | tradeable services in the strict sense, where neither capital nor labour mobility is involved; |
| Movement of consumers: | consumption of services abroad; |
| Commercial presence: | supply of a service by a service providing entity of a party from an establishment in the territory of another party (commitments do not by themselves include movement of personnel); |
| Movement of personnel: | natural persons from one party providing services in the territory of other party, whether operating from a local establishment or not. |

## PART I: HORIZONTAL MEASURES

### 1. Commercial Presence

Commercial presence requires that foreign service providers incorporate or establish the business locally in accordance with the relevant provisions of Nigerian Laws and when so required, regulations imposed by states and regulatory authorities, and is subject to Federal and State Laws, Acts, Ordinances and Regulations pertaining to land and building acquisition, lease and rental and any operating conditions that may be imposed.

Foreign investors can also invest in all sectors of industry, exploration and production of natural resources, agriculture, infrastructure and communication, civil and industrial works, scientific research and technology development, trade, transportation, tourism, banking and insurance services and other services, provided that they shall not infringe the regulation in force meant to protect the environment, Nigeria's security and defence interests, the public order, health and morals.

Enterprises with foreign investment in Nigeria have the same rights and responsibilities as domestic enterprises, and transfer abroad of profits after paying the taxes due, as is subject to the existing foreign exchange regulations.

### 2. Movement of Personnel

In Nigeria, the entry and residence of foreign natural persons (services providers) are subject to Nigeria's immigration and labour laws, regulations, guidelines and procedures. In accordance with Nigerian legislations, the employment of foreign natural persons for the implementation of the foreign investment shall be agreed upon by the Contracting Parties and approved by the Industrial Development Co-ordinating Committee; and such personnel shall be employed in management and expert jobs only.

### 3. Movement of Consumers

Nigerian consumers could freely travel abroad for buying services. The current de-regulation of the foreign exchange market has removed all restrictions regarding payments in foreign currency.

### 4. Cross-border Services

The services associated with international trade in goods follow the same rules as the goods concerned. For specific reasons, certain goods may be subjected to restrictions or control measures. Such reasons may

include, inter alia, temporary quantitative restrictions or customs surcharges due to balance of payment difficulties, safeguard measures, protection of health and life of persons, plants and environment, national security, etc.

5. Definition of Terms

No restrictions: No restrictions are currently applied in the delivery of the service.

Not applicable: This mode of delivery of service is not feasible.

ANNEX: SCHEDULE OF COMMITMENTS OF NIGERIA

| SECTOR/SUB-SECTOR | LIMITATIONS ON MARKET ACCESS | LIMITATIONS ON NATIONAL TREATMENT | ADDITIONAL COMMITMENTS |
|---|---|---|---|
| FINANCIAL SERVICES (BANKING & OTHER FINANCIAL SERVICES) | (1) Sufficient justification for need of the services to be provided by the bank | (1) No discrimination provided it suits the local market | (1) |
| | (2) Not applicable | (2) No discrimination | (2) |
| | (3) N.A. 40.0% of bank ownership by foreigners | (3) No limitation | (3) |
| | (4) No discrimination provided foreigners have requisite qualification | (4) No discrimination but the compensation should reflect ownership structure | (4) |

Key: (1) Cross-border supply
(2) Consumption abroad
(3) Presence of juridical persons
(4) Presence of natural persons

## PART II: SECTOR-SPECIFIC MEASURES

(1) Cross-border trade
(2) Movement of consumers
(3) Commercial presence
(4) Movement of personnel

| SECTOR/SUB-SECTOR | MODE OF DELIVERY | LIMITATIONS & CONDITIONS ON MARKET ACCESS | CONDITIONS & QUALIFICATIONS ON NATIONAL TREATMENT |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| COMMUNICATION SERVICES | | | |
| C. Telecommunication Services | | | |
| a. Voice telephone services 7521 | 1, 2, 3 (NITEL Monopoly) | (2) No restrictions | Not applicable |
| b. Telex services 7523 | 1, 2, 3 | No restrictions | (2) No restrictions |
| c. Telegraph services 7522 | 1, 2, 3 | No restrictions | No restrictions |
| f. Facsimile service 7521, 7529 | 1, 2, 3 | No restrictions | No restrictions |
| g. Private leased circuit services 7522, 7523 | 1, 3 | NITEL is leasing lines for voice and data transmission by subscription data voice data transmission for third parties are not allowed. | |
| h. Electronic mail | 1, 2, 3 | No restrictions | No restrictions |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| i. Voice mail 7523 | 1, 3 | No restrictions, if provided over the public network of NITEL, provision over leased lines for own purposes only, not for third parties. | |
| TELECOMMUNICATION | | | |
| - Network-based Enhanced Services | 1, 2, 3 | No restrictions (1) | No restrictions |

(1) No commitment made hereunder with respect to market access or national treatment for the provision of enhanced services shall be constructed to extend to the provision of Basic Telecommunication Services or perform any inter-change switching.

GENERAL REMARKS

(1) NITEL Monopoly of network infrastructure, services have to be provided over the public network or over leased lines; pricing of leased lines not volume sensitive, connection with the public network possible.

(2) Frequency based service - Licence may be required for certain services whereby public service function obligations could be imposed.

| | | | |
|---|---|---|---|
| 9. TOURISM AND TRAVEL SERVICES | | | |
| (A) - (D) | 1, 3, 4 | No restriction (No nationality requirements, subject to Decree No. 54 of 1976 which forbids passive tourism). | |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 11. TRANSPORT SERVICES | | | |
| A. Maritime Transport Services | | | |
| (a - f) | 1, 3, 4 | No restriction (Subject to the National Shipping Policy Decree No. 10 of 1987) | No limitation |
| B. Rail Transport Services | | | |
| d. Maintenance and repair of rail transport equipment 8868 | 3, 4 | No restriction | No restriction |