

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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Special Distribution

Group of Negotiations on Services

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COMMUNICATION FROM SOUTH AFRICA

Conditional Offer by the Republic of South Africa
concerning Initial Commitments on Trade in Services

Revision

The following communication is circulated at the request of South Africa to the members of the Group of Negotiations on Services.

1. South Africa presented a conditional offer regarding specific commitments on trade in services in document MTN.GNS/W/136 as a basis for continuing negotiations on specific commitments.
2. The following is South Africa's revised offer to bind levels of market access and national treatment in the area of services. The offer is conditional and without commitment.
3. This offer applies only to the services inscribed in South Africa's schedule and to the extent described therein. This offer is also subject to the applicable South African laws, regulations and guidelines governing the sectors included in the offer.
4. South Africa reserves the right to withdraw, modify or reduce this offer, in whole or in part, at any time prior to the conclusion of the Uruguay Round services negotiations.
5. South Africa further reserves the right to make technical changes to this offer and to correct any errors, omissions or inaccuracies.
6. The revised offer commences with a listing of the applicable horizontal measures in the areas of the temporary movement of providers of services and the movement of capital, which apply to all sectors covered by the offer.
7. Further information, including relevant legislation and details of foreign investment policy guidelines, are publicly available in accordance with Article III of the General Agreement on Trade in Services.

GATT SECRETARIAT

UR-93-0047

PART I

HORIZONTAL MEASURES

A. TEMPORARY MOVEMENT OF PROVIDERS OF SERVICES

The following sets out the South African offer on the temporary movement of natural persons supplying services under the Agreement on Trade in Services.

1. The offer pertains to the following categories of natural persons of a country that is a member of the General Agreement on Trade in Services (GATS) employed by a service provider of a member of the GATS that provide services within South Africa through a branch, subsidiary, or affiliate established in South Africa:

1.1 The following intra-corporate transferees:

- 1.1.1 Executives and senior managers
- 1.1.2 Specialists

1.2 Service sellers

2. South Africa will not require compliance with labour market tests for service sellers or intra-corporate transferees from other Members to whom access has been granted in accordance with this offer. In the case of service sellers, entry and stay under the terms of this offer will be for a period of no longer than 90 days. In the case of intra-corporate transferees, entry and stay will be for an initial period of up to three years.

3. The following definitions of natural persons supplying services shall apply:

3.1 Service sellers are representatives of a service provider that are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services on behalf of that service provider, where those representatives will not be engaged in making direct sales to the general public or in supplying services themselves.

3.2 Intra-corporate transferees are persons who have been employed by a specific service provider for a period of not less than one year and who seek temporary entry in order to render services to the same employer or a subsidiary or affiliate thereof.

3.2.1 Executives and senior managers are persons who have been employed as the senior employees within an organisation who are responsible for the entire or a substantial part of an organisation's operations in South Africa, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the business, including:

- directing the organisation for a department or sub-division of the organisation;
- supervising and controlling the work of other supervisory, professional or managerial employees; and
- having the authority to establish goals and policies of the department or sub-divisions of the organisation.

3.2.2 Specialists are persons within an organisation who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organisation's product, service, research equipment, techniques, or management.

4. Temporary entry means entry without intent to establish permanent residence under immigration laws and confers no rights with respect to citizenship.

B. MOVEMENT OF CAPITAL

Control over foreign exchange transactions is exercised by the Central Bank (South African Reserve Bank).

Capital flows from South Africa are subject to rules and regulations applicable in terms of the Exchange Control System.

Current transactions relating to, for example, import and export of goods and services, payment of interest, dividends, etc. are generally unrestricted and are effected in Commercial Rand.

The local borrowings of companies which are 25% or more owned or controlled by non-residents are limited to a certain percentage of the total effective capital invested.

Payment of interest on loans which have been approved is not restricted. Dividend payments may only be paid out of normal and current trading profits.

Transfer of current and capital payments into and from South Africa must be channelled through authorised currency-dealing banks only.

Countries within the Common Monetary Area (presently comprising South Africa, Lesotho, Swaziland and Namibia) enjoy free access in each other's monetary and capital markets.

PART II
SCHEDULE OF COMMITMENTS OF SOUTH AFRICA

SECTOR OR SUB-SECTOR	LIMITATIONS ON MARKET ACCESS	LIMITATIONS ON NATIONAL TREATMENT
1. BUSINESS SERVICES		
A. Professional Services		
1Aa 861	Legal services (advisory services in foreign and international law only)	(1) None (2) Unbound * (3) None (4) None
1Aa 861	Legal services (domestic law only)	(1) Unbound * (2) Unbound * (3) None (4) None
1Ab 862	Accounting and auditing Auditing	(1) Unbound * (2) Unbound * (3) Affiliate membership - a foreigner who is a member in good standing of an organised body of accountants and auditors recognised by the Council of The South African Institute of Chartered Accountants and who is resident in the Republic may apply for affiliate membership of the South African Institute of

Chartered Accountants and of the Provincial Societies of Chartered Accountants. Affiliate membership does not grant practising rights and therefore the person may not be a partner in a firm of Chartered Accountants. He may, however, be employed by such a firm.

1Ac 863	Taxation services (excluding legal services)	(1) None	(1) None	(1) None
		(2) None	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Ad 8671	Architectural services	(1) For building plans of 500 m2 and over the services of a local architect have to be utilised.	(1) None	(1) None
		(2) For building plans of 500 m2 and over the services of a local architect have to be utilised.	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Ae 8672	Engineering services	(1) Unbound *	(1) Unbound *	(1) Unbound *
		(2) Unbound *	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Ag 8674	(i) Urban planning services	(1) Unbound *	(1) Unbound *	(1) Unbound *
		(2) Unbound *	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None

	(ii) Landscape architectural services	(1) Unbound *	(1) Unbound *	(1) Unbound *
		(2) Unbound *	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Ah 9312	Medical and dental services	(1) Unbound *	(1) Unbound *	(1) Unbound *
		(2) None	(2) None	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Ai 932	Veterinary services	(1) Unbound *	(1) Unbound *	(1) Unbound *
		(2) None	(2) None	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Aj 93191	Services provided by:	(1) Unbound *	(1) Unbound *	(1) Unbound *
	(i) Midwives and nurses	(2) Unbound *	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
	(ii) Physiotherapists and paramedical personnel	(1) Unbound *	(1) Unbound *	(1) Unbound *
		(2) Unbound *	(2) Unbound *	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
	<u>B Computer and Related Services</u>			
1Ba 841	Consultancy services related to the installation of computer hardware	(1) None	(1) None	(1) None
		(2) None	(2) None	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None
1Bb 842	Software implementation services	(1) None	(1) None	(1) None
		(2) None	(2) None	(2) Unbound *
		(3) None	(3) None	(3) None
		(4) None	(4) None	(4) None

1Bc 843	Data processing services	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None
1Bd 844	Data base services	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None
<u>D Real Estate Services</u>			
1Da 821	Involving own or leased property	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None
1Db 822	On a fee or contracting basis	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None
<u>E Rental/Leasing Services without Operators</u>			
1Ea 83103	Relating to ships	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None
1Eb 83104	Relating to aircraft	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None
1Ec 83101+ 83102+ 83105	Relating to other transport equipment	(1) None (2) None (3) None (4) None	(1) None (2) Unbound * (3) None (4) None

1Ed	83106	Relating to other machinery	(1)	None	(1)	None
	83007	and equipment	(2)	None	(2)	Unbound *
	83108		(3)	None	(3)	None
	83109		(4)	None	(4)	None
		<u>F Other Business Services</u>				
1Fb	864	Market research and public	(1)	Unbound *	(1)	Unbound *
		opinion polling services	(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
1Fc	865	Management consulting services	(1)	None	(1)	None
			(2)	None	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
1Fn	633	Maintenance and repair of	(1)	Unbound *	(1)	Unbound *
		equipment	(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
Fo	874	Building-cleaning-services	(1)	Unbound *	(1)	Unbound *
			(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
1Fp	.875	Photographic services	(1)	Unbound *	(1)	Unbound *
			(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
1Fs	87909	Convention services	(1)	Unbound *	(1)	Unbound *
			(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None

2. COMMUNICATION SERVICES

2B 2512 Courier services

(1)	Unbound *	(1)	Unbound *
(2)	Unbound *	(2)	Unbound *
(3)	None	(3)	None
(4)	None	(4)	None

C Telecommunication services

2Ch 7523 Electronic mail

(1)to(4)	General limitations: There are limitations on the bypass of South African facili- ties for routing of domestic and international traffic. Telkom currently is acting as a de-facto regulator by means of agreements entered into with VANS providers in South Africa.	(1)	None
(2)		(2)	None
(3)		(3)	None
(4)		(4)	None

VANS providers can only provide international services with the consent of Telkom SA Ltd.

Legislation is currently being proposed to introduce a Regulator who might take over the licensing function.

No formal policy exists and applications from international VANS are dealt with on an informal ad-hoc basis. This situation may be addressed with the anticipated introduction of a new regulatory regime.

2Ci 7523 Voice mail

(1)	As above	(1)	None
(2)	As above	(2)	None
(3)	As above	(3)	None
(4)	As above	(4)	None

2Cj 7523	On-line information and data base retrieval	(1) As above (2) As above (3) As above (4) As above	(1) None (2) None (3) None (4) None
2Ck 7523	Electronic data interchange (EDI)	(1) As above (2) As above (3) As above (4) As above	(1) None (2) None (3) None (4) None
2Cl 7523	Enhanced/value-added facsimile services, including store and forward, store and retrieve.	(1) As above (2) As above (3) As above (4) As above	(1) None (2) None (3) None (4) None
2Cm n.a.	Code and protocol conversion	(1) As above (2) As above (3) As above (4) As above	(1) None (2) None (3) None (4) None
2Cn 843	On-line information and/or data processing (including transaction processing)	(1) As above (2) As above (3) As above (4) As above	(1) None (2) None (3) None (4) None
<u>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</u>			
3A 512	General construction work for buildings	(1) Unbound * (2) Unbound * (3) None (4) None	(1) Unbound * (2) Unbound * (3) None (4) None
3B 513	General construction work for civil engineering	(1) Unbound * (2) Unbound * (3) None (4) None	(1) Unbound * (2) Unbound * (3) None (4) None

3C	514+	Installation and assembly work	(1)	Unbound *	(1)	Unbound *
	516		(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
D	517	Building completion and finishing work	(1)	Unbound *	(1)	Unbound *
			(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
<u>4. DISTRIBUTION OF SERVICES</u>						
4B	622	Wholesale trade service	(1)	Unbound *	(1)	Unbound *
			(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None
4C	631	Retailing services	(1)	Unbound *	(1)	Unbound *
	632		(2)	Unbound *	(2)	Unbound *
	6111		(3)	None	(3)	None
	6113		(4)	None	(4)	None
	6121					
4D	8929	Franchising	(1)	None	(1)	None
			(2)	Unbound *	(2)	Unbound *
			(3)	None	(3)	None
			(4)	None	(4)	None

7. FINANCIAL SERVICES

A. All insurance and insurance related services
Monopoly rights:

In terms of the Reinsurance of the Damage and Losses Act, 1989, South Africa's special Risks Insurance Association (SASRIA) has the right of exclusive patronage in respect of political and riot insurance cover up to a specified monetary limit.
(Note: SASRIA may not refuse cover or cancel a policy during its currency).

7Aa	8121	Life, accident and health insurance	(1) Unbound *	(1) Unbound *
			(2) Unbound *	(2) Unbound *
7Ab	8129	Non-life insurance services	(3) To transact business in South Africa foreign insurers must be incorporated as a public company in terms of the Companies Act locally and registered with the Financial Services Board. The chairman, public officer and majority of directors must be resident in South Africa.	(3) None
7Ac	1299	Reinsurance and retrocession		(4) None

B Banking and other Financial Services (excluding insurance)

7Ba	81115 81119	Acceptance of deposits and other repayable funds from the public	(1) Unbound *	(1) Unbound *
			(2) Unbound *	(2) Unbound *
7Bb	8113	Lending of all types, including, inter alia, consumer credit, mortgage credit, factoring and financing of commercial transactions.	(3) Membership of the financial markets is, in the case of natural persons, restricted to South African citizens, whilst corporate membership is unrestricted, except in the case of the Johannesburg Stock Exchange.	(3) None
7Bc	8112	Financial leasing		
7Bd	81339	All payments and money transmission services, including credit, charge and debit cards, travellers cheques and bank drafts.	Any institution registered in terms of the Banks Act, Act No. 94 of 1990, can apply to the South African Reserve Bank for permission to be an authorised Foreign Exchange Dealer.	

Foreign banks may with prior authorization from the Registrar of Banks, establish a bank in South Africa. Provided that such foreign bank has been approved by the Registrar of Banks it may hold all the issued shares in the newly established bank.

No bank or controlling company may allot or issue any of its shares to a person to the extent that the total nominal value of such shares exceeds in total 49% of the total nominal value of all the issued vote-bearing shares in the bank or the controlling company. The Minister of Finance may, however, grant permission to a bank or controlling company to issue more than 49% of its shares to such a person. The restriction does not apply to the allotment or issuing of shares in a bank or a controlling company registered in respect of that bank, or another bank to an institution which has been approved by the Registrar and which conducts business similar to the business of a bank in a country other than South Africa.

Foreign banks wishing to obtain a controlling interest in a local bank are required to establish a domestic public company.

No person shall conduct the business of a bank unless such person is a public company, and is registered in terms of the Banks Act of 1990.

A non-resident bank may not establish a representative office in South Africa without written consent from the Registrar.

(4) Membership of the financial markets is, in the case of natural persons, restricted to South African citizens, whilst corporate membership is unrestricted, except in the case of the Johannesburg Stock Exchange.

7Bh	81339	Money broking	(1) Unbound *	(1) Unbound *
			(2) Unbound *	(2) Unbound *
			(3) None	(3) None
			(4) None	(4) None

9. TOURISM AND TRAVEL RELATED SERVICES

9A	641	Hotels and restaurants (including catering)	(1) Unbound *	(1) Unbound *
			(2) None	(2) Unbound *
			(3) None	(3) None
			(4) None	(4) None
9B	7471	Travel agencies and tour operators services	(1) None	(1) None
			(2) None	(2) Unbound *
			(3) None	(3) None
			(4) None	(4) None

9C 7472 Tourist guides services (1) Unbound *
(2) Unbound *
(3) None
(4) None

TRANSPORT SERVICES

Maritime Transport Services

11Aa 7211 Passenger transportation (1) None
(2) None
(3) None
(4) None

11Ab 7212 Freight transportation (excluding cabotage) (1) None
(2) Unbound *
(3) None
(4) None

Road transport services

11Fa 7121 Passenger transportation (1) None
7122 (2) Unbound *
(3) None
(4) None

11Fb 7123 Freight transportation (1) None
(2) Unbound *
(3) None
(4) None

11Fd 6112 Maintenance and repair of road transport equipment (1) Unbound *
(2) Unbound *
(3) None
(4) None

OTHER SERVICES NOT INCLUDED ELSEWHERE

9701	Washing, cleaning and dyeing services	(1) (2) (3) (4)	Unbound * Unbound * None None	(1) (2) (3) (4)	Unbound * Unbound * None None
9702	Hairdressing and other services	(1) (2) (3) (4)	Unbound * Unbound * None None	(1) (2) (3) (4)	Unbound * Unbound * None None

* Unbound due to lack of technical feasibility.