

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED
MTN.GNS/W/144/Rev.1
25 November 1993
Special Distribution
(UR-93-0116)

Group of Negotiations on Services

Original: English

COMMUNICATION FROM INDIA

**Draft Schedule of India Concerning
Initial Commitments on Trade in Services**

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

India had presented its Conditional Offer on Initial Commitments on Trade in Services on 22 November 1991 (MTN.GNS/W/144). Since then India has had several rounds of bilateral consultations and negotiations in the request-offer process with a number of participants. The present Draft Schedule, which is still conditional upon the outcome of the current negotiations on the General Agreement on Trade in Services (GATS) and its Annexes being acceptable to India, is based on these consultations and negotiations. Additionally, the current Draft Schedule is subject to the following specific conditions:

1. The following sectors/sub-sectors will be included in the final Schedule only if India receives satisfaction from its trading partners in respect of their commitments in the field of Movement of Persons:

- Advertising Services
- Accounting, Auditing and Book-Keeping Services
- Taxation Services
- Architectural Services
- General Management and Consultancy Services
- Construction Work for Civil Engineering, Industrial Buildings and Townships
- Audiovisual Services

2. In the area of Telecommunication Services, the entire offer is conditional on resolution of the pricing clause (paragraph 5.2) in the Annex on Telecommunications. Moreover, inclusion of Radio-paging Service, Cellular Mobile Service, Video Conferencing Service and Videotex Service is also dependent on India receiving satisfaction in the area of Movement of Persons.

3. Quantitative restrictions in the field of Audiovisual Services have been dropped in the present Draft Schedule. This would also depend on India receiving satisfaction in the area of Movement of Persons.

4. India was contemplating an offer in the Banking and other Financial Services sector (excluding Insurance) with some Market Access limitations but wholly on National Treatment basis. India has, however, decided not to include this in the present Draft Schedule, mainly on account of one major participant's proposed approach to m.f.n. treatment in this area and also partly on account of inadequate response from India's major trading partners in the area of Movement of Persons. In the event of the m.f.n. treatment issue not getting resolved to India's satisfaction, it is proposed to seek an m.f.n. derogation in this sector for reciprocity purposes.

India reserves its right to modify this Draft Schedule or withdraw it, in whole or in part, at any time prior to the closure of the Services negotiations, depending on the resolution of above concerns and response from other participants in areas of negotiating interest for India.

India also reserves the right to make technical changes to the Schedule and to correct any errors, omissions or inaccuracies.

This Draft Schedule has been drawn up in the format for specific commitments attached to MTN.GNS/W/164. The description of sectors and sub-sectors is based on MTN.GNS/W/120. Levels of commitments have been recorded as per standard terms indicated in MTN.GNS/W/164. Accordingly, "**unbound**" implies no commitment; "**unbound***" lack of technical feasibility; "**none**" in **column 4** full market access commitment for the concerned mode; and "**none**" in **column 5** full national treatment. Modes of delivery are numbered as **1** for Cross-Border Supply, **2** Consumption Abroad, **3** for Commercial Presence, and **4** for Movement of Personnel.

Sl. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
All Sectors	3	None other than (i) Branches of companies incorporated outside India require the prior approval of the Reserve Bank of India under the FERA 1973 to act as agent in India of any person or company in the trading or commercial transactions of such person or company. (ii) Branches of companies incorporated outside India require the prior approval of the Reserve Bank of India under the FERA 1973 to carry on any activity of a trading or commercial nature or to acquire the whole or any part of an undertaking in India of any person or company carrying on any trade or commerce, or to purchase the shares in India of any such company.				

Sl. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	All Sectors (cont'd)		<p>(iii) Branches and representative offices of companies incorporated outside India and foreign nationals require the prior approval of the Reserve Bank of India under the FERA 1973 to acquire, hold or dispose of in any manner immovable property situated in India.</p> <p>(iv) Representative offices other than those of Associations of Motion Picture or Videotape Distributors are not allowed to undertake any commercial activity but can carry on liaison work or represent the interests of the parent company in India. All expenses of such an office are to be met by remittances from abroad and no income can be received in India.</p>			

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	All sectors (cont'd)		<p>In the case of the Associations mentioned above, the limitations on market access are indicated in the schedule.</p> <p>(v) When a joint venture partner is a public sector enterprise or a government undertaking, while granting access, preference will be given to foreign service suppliers/entities which offered the best terms for transfer of technology.</p>	<p>Unbound except for the entry and temporary stay of natural persons who fall in one of the following categories:</p> <p>(a) <u>Business visitors</u></p>	<p>None for categories in column 4. Rest unbound.</p> <p>Persons who will not receive remuneration from within India, visiting India:</p>	

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	All sectors (cont'd)		<p>(a) for business negotiations;</p> <p>(b) for doing preparatory work for establishing a commercial presence in India; and</p> <p>(c) for facilitating the supply of a service under a contract.</p>	<p>Entry for persons in this category shall be for a period of not more than 180 days.</p> <p>(b) <u>Intra-corporate transfers</u></p> <p>At the level of Managers, Executives and Specialists who have been in the employment of a juridical person of another Member for a period not less than one year prior to the date of application for entry</p>		

Sl. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	All sectors (cont'd)		into India and are being transferred to a branch or representative office or a juridical person owned or controlled by the aforesaid juridical person.			

Managers are:

Persons who direct a branch office or one or more departments as their head, or supervise or control the work of other supervisory, professional or managerial personnel and have the authority to appoint or remove the personnel and powers to exercise discretionary authority over day-to-day operations.

Executives are:

Persons who are in senior positions within a juridical person including a branch who primarily direct the management, have wide decision-making powers and

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	All sectors (cont'd)		are either members of the board of directors or receive directions from the board or the general body of shareholders.			
			<p>Specialists are:</p> <p>Persons who possess high qualifications and knowledge at an advanced level relevant to the organizations activities or of the organization's research, equipment, techniques or management and may include persons who are members of accredited professional bodies.</p> <p>Entry for persons in the above categories shall be for a maximum period of 5 years.</p> <p>(c) <u>Professionals</u></p> <p>Natural persons to be engaged by a juridical person in India as part of a</p>			

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
			<p>services contract for rendering professional services for which he/she possesses the necessary academic credentials and professional qualifications with three years experience in the field of physical sciences, engineering, natural sciences, business management, accounting and financial services.</p> <p>Entry and stay in this category shall be for a maximum period of two years.</p>			

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SL. No.	Sector or sub-sector (2)	Mode of delivery (3)	Limitations and conditions of market access (4)	Conditions and qualifications on national treatment (5)	Additional commitments, if any (6)	Remarks (7)
A.	BUSINESS SERVICES <u>Professional Services</u>					
(a)	(i) (Accounting, Auditing and Book Keeping Services ((CPC-862))	1	Unbound	Unbound		
	(ii) (Taxation Services ((CPC-863))	2	Unbound	Unbound		
		3	Through partnership with Indian Chartered Accountants	Residence requirement: not less than 182 days in a year		
		4	Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		
(b)	<u>Architectural Services</u> (CPC-8671)	1	Unbound	Unbound	None	
		2	Unbound	Unbound		
		3	Only through partnership with Indian architects			
		4	Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		
(c)	<u>Engineering Services</u> (CPC-8672)	1	Unbound	Unbound	Unbound*	
		2	Unbound*	Unbound*	Unbound*	

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(c) <u>Engineering Services</u> (CPC-8672) (cont'd)	3 4	Only through incorporation with a foreign equity ceiling of 51% Unbound except as indicated in the horizontal section	None Unbound except as indicated in the horizontal section			
B. <u>COMPUTER AND RELATED SERVICES</u>						
(a) (Consultancy services related to the installation of computer hardware. (CPC-841))	1	Unbound	Unbound			
(b) (Software implementation services. (CPC-842))	2	Unbound*	Unbound*			
(c) (Data processing services. (CPC-843))	3	Only through incorporation with a foreign equity ceiling of 51%	None			
(d) (Data base services (CPC-844))	4	Unbound except as indicated in the horizontal section	Unbound			
(e) Maintenance and repair services of office machinery and equipment including computers. (CPC-845))	1 2 3 4	Unbound Unbound* Only through incorporation with a foreign equity ceiling of 51% Unbound except as indicated in the horizontal section	Unbound Unbound* None Unbound except as indicated in the horizontal section			

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
C.	<u>RESEARCH AND DEVELOPMENT SERVICES</u>					
	R & D services on the following natural sciences only:	1	Unbound	Unbound	Unbound*	
	(a) Heat, light, electromagnetism, astronomy, etc. but excluding atomic energy and related matters. (CPC-83101)	2	Unbound*	Only through incorporation with a foreign equity ceiling of 51%	None	
	(b) Engineering and technology, including applied science and technology for casting, metal, machinery, electricity, communications, vessels, aircrafts, civil engineering, construction, information, etc.	3	Unbound except as indicated in the horizontal section			
		4				
D.	<u>OTHER BUSINESS SERVICES</u>					
	Advertising services (CPC-871)	1	Unbound	Unbound	Unbound*	
		2	Unbound	Only through incorporation with a foreign equity ceiling of 51 %	None	
		3	Unbound except as indicated in the horizontal section			
		4				

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
E. <u>GENERAL MANAGEMENT AND CONSULTANCY SERVICES (CPC-86301)</u>	1	Unbound	Unbound	Unbound		
	2	Unbound	Only through incorporation with a foreign equity ceiling of 51%	Unbound		
	3			None		
	4		Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		
F. <u>TECHNICAL TESTING AND ANALYSIS SERVICES (CPC-8676)</u>	1	Unbound	Unbound	Unbound		
	2	Unbound	Only through incorporation with a foreign equity ceiling of 51%	Unbound		
	3			None		
	4		Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		
G. <u>COMMUNICATION SERVICES</u>						
	Telecommunication Services					
	Data and message transmission services, the following:	1	None	None		
		2	Unbound	Unbound		
					This offer is conditional on resolution of the pricing clause in the telecommunication annex	

SL. No.	Sector or sub-sector (cont'd)	Mode of delivery (3)	Limitations and conditions of market access (4)	Conditions and qualifications on national treatment (5)	Additional commitments, if any (6)	Remarks (7)
(1)	<u>Telecommunication Services</u>	3	Only through incorporation with a foreign equity ceiling of 51%	None		
(a)	Electronic mail (CPC-7523**)					
(b)	Voice mail (CPC-7523**)					
(c)	On-line information and data base retrieval (CPC-7523**)	4	Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		
(d)	On-line information and/or data processing (CPC-843**)					
(e)	Enhanced/value-added facsimile services, including store and forward, store and retrieve (CPC-7523**)					
(f)	Radio paging service (CPC-843**)					
(g)	Cellular mobile service (CPC-843**)					
(h)	Video conferencing service (CPC-843**)					
(i)	Audio conferencing service (CPC-843**)					
(j)	Videotext service (CPC-843**)					
H.	<u>AUDIO-VISUAL SERVICES</u>	1	Unbound	Unbound	Approval of government designated authority for quality control	
	Motion picture or video tape distribution services. (CPC-96113)	2	Unbound*	Unbound*		
		3	Representative office only allowed			
		4	Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		

SL. No. (1)	Sector or sub-sector (2)	Mode of delivery (3)	Limitations and conditions of market access (4)	Conditions and qualifications on national treatment (5)	Additional commitments, if any (6)	Remarks (7)
1.	<u>CONSTRUCTION AND RELATED ENGINEERING SERVICES</u>					
	(a) Construction work for civil engineering.	1	Unbound*	Unbound*		
	Roads and bridges only:	2	Unbound*	Unbound*		
		3	Only through incorporation with a foreign equity ceiling of 51 %	None		
		4	Unbound except as indicated in the horizontal section	Unbound except as indicated in the horizontal section		
			Construction of highways, streets, railways, runways, bridges, tunnels, subways, waterways, harbours, dams, pipelines, communication lines, power lines and construction work of constructions for mining and manufacturing not elsewhere classified e.g. power plants, iron foundries, blast furnaces and coke ovens. It excludes construction work of warehouses and industrial buildings, residential and non-residential buildings. (CPC-Ex.)			
	(b) Construction work for civil engineering industrial buildings and townships. (CPC-Ex.)					

SL. No.	Sector or sub-sector	Mode of delivery	Limitations and conditions of market access	Conditions and qualifications on national treatment	Additional commitments, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
J.	<u>TOURISM AND TRAVEL RELATED SERVICES</u>					
	Hotels and other lodging services (CPC-Ex.641)	1	Unbound*	Unbound*	Unbound*	
		2	Unbound	Unbound	Unbound	
		3	Only through incorporation with a foreign equity ceiling of 51%	None		
		4	Unbound except as indicated in the horizontal section	Unbound	Unbound	Unbound except as indicated in the horizontal section
		1	Unbound	Unbound	Unbound	
		2	Unbound	Unbound	Unbound	
		3	Only through incorporation with a foreign equity ceiling of 51%	None		
		4	Unbound except as indicated in the horizontal section	Unbound	Unbound	Unbound except as indicated in the horizontal section