

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Services

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COMMUNICATION FROM HONDURAS

**Conditional Offer of Honduras Concerning
Initial Commitments on Trade in Services**

The attached communication is circulated at the request of Honduras to members of the Group of Negotiations on Services.

*This is a revision of document MTN.GNS/W/142 which contained the offers of initial commitments of El Salvador, Guatemala, Honduras and Nicaragua.

I. INTRODUCTION

This document contains the conditional offer of the Government of Honduras concerning initial commitments in the framework of the General Agreement on Trade in Services. The purpose of this offer is to make a substantive contribution to the negotiations aimed at establishing multilateral disciplines and liberalizing trade in services, as a means of promoting development, particularly that of the developing countries.

II. GENERAL CONSIDERATIONS

This offer concerns and covers exclusively the sectors mentioned in Section IV on Specific Commitments. Likewise, the Horizontal Measures stipulated in Section III refer solely to the activities and sub-activities mentioned therein. The sectoral classification is based in general on the classification contained in document MTN.GNS/W/120 and the CPC Classification prepared by the United Nations.

Where relevant, the international conventions, agreements and treaties signed by and in force for Honduras which affect trade in the services covered by this offer will prevail.

The acquisition of real property in frontier areas is governed by the rules laid down in the Constitution of the Republic. Article 107 reserves a forty kilometre strip for companies that are wholly owned by Honduran partners, by Hondurans by birth or by State institutions, in the case of land situated in border areas or on either coast or consisting of islands, cays, reefs, rocks, shoals and sand-banks. However, Article 50 of Chapter VI of the Regulation to the Investment Law (Decree No. 80-92 of 21 June 1992), referring to Article XVIII of the Law, authorizes foreign investment in these areas in certain cases subject to government authorization.

This offer does not imply any binding of the laws, rules and regulations in force concerning taxation, foreign exchange, monetary, financial and labour matters, immigration, government procurement and environmental protection and conservation of natural resources.

In addition, the exceptions stipulated by the Government of Honduras to the Most-Favoured-Nation Clause, Article II of the GATS, are listed in Annex I of this offer.

This offer is conditional upon the global results achieved in the Uruguay Round, and in particular, the degree of attention and level of commitments accorded to the service sectors and sub-sectors of priority interest for Honduras.

Honduras reserves the right to maintain, modify or reduce this offer at any time prior to the entry into force of the multilateral agreement, in accordance with the conditions established above. It also reserves the right to make whatever technical modifications it considers necessary.

III. HORIZONTAL MEASURES

The main Horizontal Measures limiting, conditioning or qualifying in a general manner market access and national treatment for foreign service suppliers are the following:

3.1 Terms, conditions and limitations contrary to the provisions of Article XVI of the GATS

All modes of supply of services are subject to, *inter alia*, the Investment Law, Trade Code, Law on Representatives and Distributors of Commercial Establishments, Law on the Protection of Small Traders, Consumer Protection Law, foreign exchange régime and foreign exchange policy management.

The conditions and limitations contrary to Article XVI of the GATS are the following, by mode of supply of services:

(a) Cross-border supply

As this mode of supply requires international trade in goods, the movement of such goods will be governed by the customs provisions in force in Honduras.

Where cross-border supply requires the use of the national and international telecommunication networks, it will be necessary to comply with the relevant rules established by the Ministry of Communications, Public Works and Transport (SECOPT) and the Honduran Telecommunications Company (HONDUTEL). When the movement of the service is carried out through the post and courier system, the Law on Postal and Courier Services will apply.

(b) Consumption abroad

Consumption of services abroad by Honduran residents will be governed by the Law on Population and Immigration Policy and the foreign exchange provisions in force in Honduras, in particular the rules established by the Central Bank of Honduras.

As this mode of supply requires international trade in goods, the movement of such goods will be governed by the customs provisions in force in Honduras.

(c) Commercial presence

With the recently adopted Investment Law, the Government of Honduras intends to stimulate and guarantee national, foreign and joint investment, by guaranteeing the following:

- Unlimited equity holding except in the cases established in the Constitution of the Republic in which government authorization must be sought through the Ministry of the Economy and Trade, which will decide in consultation with other institutions whether such authorization may be granted. In addition, the Law establishes that small-scale industry and trade are reserved exclusively for Hondurans and trading companies formed entirely by Hondurans.
- Article X recognizes that productive activities may be carried out through joint ventures between national and foreign persons by means of contracts under which the parties may provide land, capital, services, technology, technical assistance or other assets for production or internal and external marketing.

(d) Movement of suppliers

The supply of services by suppliers not resident in Honduras will be limited to higher-level and specialized personnel in connection with a commercial presence, and must contribute to the training of Honduran personnel in the specialized fields of activity concerned, as well as complying with the provisions laid down in the Law on Mandatory Enrolment in Professional Colleges.

In accordance with the Law on Population and Immigration Policy, the Labour Code and the Work Permit Law, foreigners must obtain a work permit issued by the Ministry of Labour and Social Security, once they have obtained residence documents.

Article 11 of the Labour Code establishes a ceiling of 10 per cent for the number of foreign workers in an enterprise, who must not receive more than 15 per cent of total wages paid. Article 16 provides that managers and supervisors of the enterprise must speak Spanish.

The Constitution of the Republic establishes a limit of 10 per cent on the total number of foreigners affiliated to trade unions, and no foreigner may be a member of the governing body of a trade union.

3.2 Conditions and qualifications contrary to Article XVII of the GATS (national treatment)

Applicable to all modes of international supply of services:

The Law on the Protection of Small Traders reserves small-scale trade and industry for Hondurans.

The Income Tax Law and Decree Law No. 25 of 20 December 1963 and amendments thereto, in particular the Law on the Organization of the Economy, establish the following:

Non-resident natural or legal persons

Gross income obtained from Honduran sources by non-resident natural or legal persons are subject to tax at the following rates:

- (a) income from moveable or immoveable property, except as provided for in paragraphs (e) and (g) below, 30 per cent;
- (b) royalties from mining, quarrying and other natural resources, 10 per cent;
- (c) wages, salaries, commissions and any other compensation for services provided within or outside the national territory, 35 per cent;
- (d) income or profits obtained by foreign enterprises through their branches, subsidiaries, affiliates, agencies, legal representatives and the like operating in the country, 15 per cent;
- (e) income, profits, dividends or any other form of participation in profits or reserves of natural or legal persons, 15 per cent;
- (f) royalties and other sums paid for the use of patents, designs, secret formulas and processes, trademarks, copyright and other similar rights, 35 per cent;
- (g) interest on commercial operations, bonds, securities and other debt instruments, 5 per cent;

"The natural or legal persons making the payments are responsible for withholding and paying over the tax thus generated."

Taxation by sectors

Under the Income Tax Law, the tax is levied on the following gross income of non-resident of natural or legal persons:

- income from the operation of aircraft, ships and land motor-vehicles, 10 per cent;
- income from the operation of communication enterprises, 5 per cent;
- income from public spectacles, 30 per cent;
- cinema and television films and video tapes, 15 per cent.

IV. SPECIFIC COMMITMENTS

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers
Activity or sub-activity	Mode of delivery	Market access	National treatment
1. FINANCIAL SERVICES			
1. (a) BANKING SERVICES			
(i) DEPOSIT TAKING (81116 and 81119) (only sight deposits, saving deposits and time deposits in local currency)	(1) (2) (3)	Not bound Not bound Subject to approval of the Central Bank of Honduras, for which purpose the application must be accompanied by certified copies of the memorandum and articles of association and legal authorization in the country of origin, the powers of its legal representatives in Honduras and the reports and balance sheets of the bank for the last ten years or for the years it has existed if less than ten. Only legally established branches or agencies may be authorized. Any dispute arising, whatever its nature, may be resolved only by Honduran authorities in accordance with Honduran law. Foreign banks must permanently maintain in the country the authorized capital and reserves established by law. They also undertake to be accountable without any restriction for the operations they have to conduct or do conduct in the country, as established by law.	No limitations except as specified under Horizontal Measures
(ii) GRANTING OF LOANS (81132) (only loans in local currency) (excluding mortgages)	(1) (2)	(4) No limitations except as specified under Horizontal Measures	No limitations except as specified under Horizontal Measures

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers
Activity or sub-activity	Mode of delivery	Market access	National treatment
GRANTING OF LOANS (cont'd)	(3)	<p>Subject to approval of the Central Bank of Honduras, for which purpose the application must be accompanied by certified copies of the memorandum and articles of association and legal authorization in the country of origin, the powers of its legal representatives in Honduras and the reports and balance sheets of the bank for the last ten years or for the years it has existed if less than ten. Only legally established branches or agencies may be authorized. Any dispute arising, whatever its nature, may be resolved only by Honduran authorities in accordance with Honduran law. Foreign banks must permanently maintain in the country the authorized capital and reserves established by law. They also undertake to be accountable without any restriction for the operations they have to conduct or do conduct in the country, as established by law.</p> <p>(4)</p> <p>No limitations except as specified under Horizontal Measures</p> <p>1. (b) INSURANCE AND REINSURANCE</p> <p>(i) LIFE INSURANCE (81211)</p> <p>(1) Not bound</p> <p>(2) Not bound</p>	<p>No limitations except as specified under Horizontal Measures</p> <p>Not bound</p> <p>Not bound</p>

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers
Activity or sub-activity	Mode of delivery	Market access	National treatment
LIFE INSURANCE (cont'd)	(3)	<p>Entry of foreign companies requires that at least 60% of registered capital belong to Honduran nationals. Insurance institutions may not buy foreign securities or grant loans to natural or legal persons domiciled outside Honduras. Any dispute of any nature will be resolved by Honduran authorities subject to Honduran law. They must comply with the provisions on Law on Insurance Institutions, which applies to both national and foreign enterprises and empowers the Insurance Supervision Department to give its opinion as to the desirability of the new institution. The Ministry of Finance and Public Credit subsequently grants the authorization. Once the memorandum of association has been approved it must be registered in the Company Register.</p> <p>No limitation except as specified under Horizontal Measures</p>	No limitations except as specified under Horizontal Measures
(ii) GENERAL INSURANCE (81291-81299) includes: accident, disaster, vehicle and freight, liability and professional risks, credit and transport)	(4)	<p>Not bound</p> <p>Not bound</p> <p>Not bound</p> <p>Entry of foreign companies requires that at least 60% of registered capital belong to Honduran nationals. Insurance institutions may not buy foreign securities or grant loans to natural or legal persons domiciled outside Honduras. Any dispute of any nature will be resolved by Honduran authorities subject to Honduran law. They must comply with the provisions on Law on Insurance Institutions, which applies to both national and foreign enterprises and empowers the Insurance Supervision Department to give its opinion as to the desirability of the new institution. The Ministry of Finance and Public Credit subsequently grants the authorization. Once the memorandum of association has been approved it must be registered in the Company Register.</p>	<p>No limitations except as specified under Horizontal Measures</p> <p>Not bound</p> <p>Not bound</p> <p>No limitations except as specified under Horizontal Measures</p>
	(1)		
	(2)		
	(3)		
	(4)		Not bound

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers
Activity or sub-activity	Mode of delivery	Market access	National treatment
(iii) REINSURANCE	(1) (2) (3)	Not bound Not bound <p>Entry of foreign companies requires that at least 60% of registered capital belong to Honduran nationals. Insurance institutions may not buy foreign securities or grant loans to natural or legal persons domiciled outside Honduras. Any dispute of any nature will be resolved by Honduran authorities subject to Honduran law. They must comply with the provisions on Law on Insurance Institutions, which applies to both national and foreign enterprises and empowers the Insurance Supervision Department to give its opinion as to the desirability of the new institution. The Ministry of Finance and Public Credit subsequently grants the authorization. Once the memorandum of association has been approved it must be registered in the Company Register.</p>	Not bound Not bound <p>No limitations except as specified under Horizontal Measures</p>
(iv) SERVICES AUXILIARY TO INSURANCE (81401-81409) (including broking services, actuarial services and other auxiliary services)	(4) (1) (2) (3)	Not bound Not bound Not bound <p>Entry of foreign companies requires that at least 60% of registered capital belong to Honduran nationals. Insurance institutions may not buy foreign securities or grant loans to natural or legal persons domiciled outside Honduras. Any dispute of any nature will be resolved by Honduran authorities subject to Honduran law. They must comply with the provisions on Law on Insurance Institutions, which applies to both national and foreign enterprises and empowers the Insurance Supervision Department to give its opinion as to the desirability of the new institution. The Ministry of Finance and Public Credit subsequently grants the authorization. Once the memorandum of association has been approved it must be registered in the Company Register.</p>	Not bound Not bound Not bound <p>No limitations except as specified under Horizontal Measures</p>
	(4)	Not bound	Not bound

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers
Activity or sub-activity	Mode of delivery	Market access	National treatment
2. TOURISM SERVICES			
2. (a) HOTELS (64110-64199) (including hotels, motels, hostels and other lodging services)	(1) (2) (3) (4)	Not bound No limitations No limitations except as specified under Horizontal Measures No limitations except as specified under Horizontal Measures	Not bound No limitations No limitations except as specified under Horizontal Measures No limitations except as specified under Horizontal Measures
2. (b) RESTAURANTS (64210-64320) (including food and beverage servicing services, with self-service or otherwise)	(1) (2) (3) (4)	Not bound No limitations No limitations except as specified under Horizontal Measures No limitations except as specified under Horizontal Measures	Not bound No limitations No limitations except as specified under Horizontal Measures No limitations except as specified under Horizontal Measures
3. TRANSPORT SERVICES			
3.(a) CAR RENTAL SERVICES (71222)	(1) (2) (3) (4)	Not bound No limitations No limitations except as specified under Horizontal Measures No limitations except as specified under Horizontal Measures	Not bound No limitations No limitations except as specified under Horizontal Measures No limitations except as specified under Horizontal Measures
3.(b) AIR TRANSPORT SERVICES (i) MAINTENANCE AND REPAIR SERVICES	(1) (2) (3) (4)	No Limitations Not bound No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures	No limitations Not bound No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers
Activity or sub-activity	Mode of delivery	Market access	National treatment
(ii) SALE OR MARKETING OF TRANSPORT SERVICES (74710-74712) (includes travel agency, tour operator and tourist guide services)	(1) (2) (3) (4)	Not bound No limitations Not bound Not bound	Not bound No limitations Not bound Not bound
(iii) COMPUTERIZED RESERVATION SERVICES	(1) (2) (3) (4)	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound
4. PROFESSIONAL SERVICES			
4. (a) ADVERTISING SERVICES (87120) (includes planning, creating and placement services of advertising)	(1) (2) (3) (4)	Not bound No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures	Not bound No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures
4.(b) COMPUTER SERVICES			
(i) CONSULTANCY SERVICES RELATED TO COMPUTERS AND DATA PROCESSING (84100-84390) (including software implementation services, systems analysis, data processing, time-sharing services, data preparation services)	(1) (2) (3) (4)	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound

(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4) Movement of suppliers	National treatment
Activity or sub-activity	Mode of delivery	Market access		
(ii) SOFTWARE DEVELOPMENT (8420) (including programming services)	(1) (2) (3) (4)	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound	No limitations except as mentioned under Horizontal Measures No limitations except as mentioned under Horizontal Measures Not bound Not bound

ANNEX I

List of Exception to the Most-Favoured-Nation Clause (Article II)
of the GATS Presented by the Government of Honduras

Sector and description of measure	Duration	Countries concerned
All sectors		
(1) Agreements signed by Honduras in the context of the Central American Integration Treaty include: Multilateral Treaty of Free-Trade and Economic Integration, Central American Convention on Equalization of Import Duties and Treaty of Economic Association.	Indefinite	Costa Rica, El Salvador, Guatemala and Nicaragua
(2) Central American Clause of Exception. This prevents the extension to third countries of the concessions granted by Central American States bilaterally or multilaterally among themselves.	Indefinite	Costa Rica, El Salvador, Guatemala and Nicaragua
(3) Agreement on the Establishment of the Honduras-United States Trade and Investment Council	Indefinite	United States
(4) Multilateral Framework Agreement between Central America and Mexico	Indefinite	Central American countries and Mexico
(5) Framework Agreement on Trade and Investment between Central America and Venezuela	Indefinite	Central American countries and Venezuela
(6) Agreement of Nueva Ocotepeque on Trade and Investment	Indefinite	Guatemala and El Salvador
FINANCIAL SECTOR		
(1) Economic Action Programme between Honduras and Panama (July 1992)	Indefinite	Panama
TELECOMMUNICATIONS SECTOR		
(1) Regional Technical Commission on Telecommunications (COMTELCA)	Indefinite	Guatemala, El Salvador, Nicaragua and Costa Rica
(2) Hispano-American Association of Research Centres (AHCIET)	Indefinite	Argentina, Bolivia, Costa Rica, Colombia, Cuba, Chile, Ecuador, El Salvador, Spain, Guatemala, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela
(3) Inter-American Telecommunications Conference (CITEL)	Indefinite	OAS Member Countries
(4) Central American Telecommunications Institute (INCATEL)	Indefinite	Guatemala, El Salvador and Costa Rica