

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED
MTN.GNS/W/216*
14 December 1993
Special Distribution
(UR-93-0156)

Group of Negotiations on Services

Original: Spanish

COMMUNICATION FROM EL SALVADOR

**Conditional Offer of El Salvador Concerning
Initial Commitments on Trade in Services**

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

El Salvador reserves the right to modify or withdraw all or part of this offer, as well as to make technical changes in it, depending on the offers made by its main trade partners.

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

**OFFER OF EL SALVADOR CONCERNING INITIAL
COMMITMENTS ON TRADE IN SERVICES**

I. **General considerations**

1. This document concerns the revised conditional offer of the Government of El Salvador in respect of initial commitments within the framework of the General Agreement on Trade in Services. The offer aims to make a substantial contribution to the negotiations to establish multilateral disciplines and liberalize trade in services, as a means of promoting development, particularly in developing countries.

2. The present offer concerns and covers exclusively the sectors mentioned in Section III on specific commitments and the horizontal measures in that section refer solely to the sectors and sub-sectors 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.

3. Where relevant, the international conventions, agreements and treaties signed by and in force for El Salvador which affect trade in the services covered by this offer will prevail. In addition, the commitments entered into by El Salvador within the framework of Central American integration and the process of restructuring, improving and reviving it shall be observed.

4. This offer does not imply any binding of the laws, regulations, decrees, decisions, orders and resolutions in force concerning taxation, foreign exchange, monetary, financial and labour matters, immigration, government procurement and environmental protection and conservation of natural resources, *inter alia*.

5. In addition, the exceptions stipulated by the Government of El Salvador to Article II of the GATS are listed in Annex I of this offer.

6. 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 services sectors and sub-sectors of priority interest for achieving El Salvador's socioeconomic development objectives.

7. El Salvador 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.

**HORIZONTAL MEASURES APPLICABLE TO THE SECTORS
LISTED IN THE SECTORAL PART OF THIS SCHEDULE**

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

A. **TERMS, CONDITIONS AND LIMITATIONS CONTRARY TO THE PROVISIONS OF
ARTICLE XVI OF THE GATS (MARKET ACCESS)**

1. **Cross-border supply**

Where cross-border supply of services of any kind requires the use of the national and international telecommunication networks, it will be necessary to comply with the relevant rules established by the National Telecommunications Administration (ANTEL).

2. **Consumption abroad**

There are no horizontal measures limiting or conditioning in a general manner market access for this form of delivery of services.

3. **Commercial presence**

For a foreign company to be able to engage in commercial activities in El Salvador, it must:

- prove that it is legally established in accordance with the law of the country in which it has been set up;
- permanently maintain in the country a representative with broad powers to perform all the acts that must be carried out and must have effect in the country;
- accept to be subject to the laws, courts and authorities of the country in respect of the acts performed or having effect in the country.

In addition, foreigners wishing to engage in trade and industry in El Salvador must first obtain a licence enabling them to do so from the Directorate-General of Internal Taxation.

Small-scale trade, industry and provision of services are reserved exclusively for persons who are nationals of El Salvador by birth, and the law shall establish the ceilings for the classification of such activities.

All foreign investors wishing to be eligible for the benefits and guarantees extended to their investment must be registered in the foreign investment register kept by the Ministry of the Economy. For this purpose, the Ministry shall take into account the nature, value, origin, destination and date of entry of the investment, as well as any modification during its presence in and exit from the country.

Registered investment is subject to the following limitations:

- in the case of investment in commercial and services activities, the amount of the net profits obtained in each financial year that may be remitted abroad is up to 50 per cent of the registered investment;

- free remittance of payments for rights to use foreign trademarks and patents, technical assistance and other similar services, provided the value does not exceed 10 per cent of net sales.

4. Movement of suppliers

Every employer must employ Salvadorian nationals in a proportion of at least 90 per cent of the personnel of his enterprise. In special circumstances the Ministry of Labour and Social Security may authorize the employment of more foreigners when it is difficult or impossible to replace them by nationals, but employers remain obliged to train Salvadorian personnel under the supervision and control of the Ministry within a period of not more than five years. The amount of wages paid to Salvadorians may not be less than 85 per cent of the total wages paid. This percentage may be changed with the authorization of the above-mentioned Ministry.

Foreigners may not hold the positions of administrator, director, manager or representative of a small-scale enterprise in the trade, industrial or services sector.

Foreigners wishing to provide professional, technical or administrative services for foreign or international enterprises established in El Salvador with a view to carrying out activities of management, control and administration of businesses established in other countries must obtain authorization from the Ministry of Labour and Social Security.

The provision of professional services through the presence of natural persons is subject to the following requirements:

- (a) when auditing and public accounting activities involve the signing of financial accounts, it is necessary to be a Salvadorian national and be enrolled in the professional register of auditors;
- (b) in order to practise as a lawyer, in other words, to act as an attorney in accordance with national law, the authorization of the Supreme Court of Justice is required. If a Salvadorian who has acquired his degree outside El Salvador applies to be authorized to practise law, he must present his duly authenticated degree and show that it is recognized by the University of El Salvador.
- (c) In order to exercise as a professional in engineering and architecture, it is necessary to be registered in the Register of Architects, Engineers, Draughtsmen and Builders, kept by the Department of Housing and Urban Development of the Ministry of Public Works. In order to be enrolled in the Register, the person concerned must submit his Degree as an architect or engineer obtained from one of the universities of El Salvador or recognized by the University of El Salvador. If the profession is to be exercised in the municipalities included in the metropolitan area of San Salvador, he must also be registered with the Planning Office of the Metropolitan Area of San Salvador.

**B. CONDITIONS AND QUALIFICATIONS CONTRARY TO ARTICLE XVII OF THE GATS
(NATIONAL TREATMENT)**

Applicable to all modes of international supply of services:

Any type of income obtained in the country, other than dividends, paid to legal persons not domiciled in the country is subject to a deduction of 20 per cent.

INITIAL COMMITMENTS

(1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of suppliers

Activity or Sub-Activity	Mode of Delivery	Limitations on Market Access	Limitations on National Treatment
1. FINANCIAL SERVICES 1.a. DEPOSIT TAKING Specifically: sight deposits in banks and branches of foreign banks (81116); time deposits and saving accounts (81116, 81119)	(1) Not bound (2) Not bound (3) Branches, or through participation in the ownership of domestic banks or finance companies. In the case of banks and finance companies that have been or are in the process of being privatized, the ceiling on shareholding by a natural or legal person is 5 per cent of the capital of the institution. Foreign entities wishing to establish branches in the country must obtain authorization from the Financial System Supervisory Department. (4) None, except as specified under Horizontal Measures	Not bound At least 50 per cent of ownership of shares in banks or finance companies set up in El Salvador must be maintained for Salvadorian natural persons or Central American natural persons, when reciprocity exists in their country of origin. Creditors domiciled in El Salvador enjoy preferential rights over assets which a foreign financial institution owns in the country.	None, except as specified under Horizontal Measures
1.b. GRANTING OF LOANS Specifically: granting of mortgage loans (81131); lending of all types (81132); credit cards services (81133); issue and acceptance of letters of credit and documentary credits in banks and branches of foreign banks (81139)	(1) Not bound (2) Not bound (3) Branches, or through participation in the ownership of domestic banks or finance companies. In the case of banks and finance companies that have been or are in the process of being privatized, the ceiling on shareholding by a natural or legal person is 5 per cent of the capital of the institution. Foreign entities wishing to establish branches in the country must obtain authorization from the Financial System Supervisory Department. This authorization is also required by foreign financial institutions intending to open agencies or offices to serve as information centres for their clients or for the placement of funds in the country in the form of credits or investments, without engaging in deposit operations in the national territory. (4) None, except as specified under Horizontal Measures	Not bound At least 50 per cent of ownership of shares in banks or finance companies set up in El Salvador must be maintained for Salvadorian natural persons or Central American natural persons, when reciprocity exists in their country of origin. Creditors domiciled in El Salvador enjoy preferential rights over assets which a foreign financial institution owns in the country.	None, 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	Limitations on Market Access	Limitations on National Treatment
1.c OTHER FINANCIAL SERVICES Specifically: wholesale deposit services (81115); security custody services (81319); financial reporting services for clients (81319); issue and placing of securities, bonds and mortgage bonds in local or foreign currency (81321, 81322); operations with securities of other companies, the Central Reserve Bank or the State Bank or guaranteed by the latter (81321); operations on the secondary mortgage market (81321); financial intermediation for the placement of resources of national or foreign institutions and enterprises (81331); foreign exchange buying and selling operations (81333); transport of cash and securities (81334)	(1) (2) (3) (4)	Not bound Not bound Branches, or through participation in the ownership of domestic banks or finance companies. In the case of banks and finance companies that have been or are in the process of being privatized, the ceiling on shareholding by a natural or legal person is 5 per cent of the capital of the institution. Foreign entities wishing to establish branches in the country must obtain authorization from the Financial System Supervisory Department. This authorization is also required by foreign financial institutions intending to open agencies or offices to serve as information centres for their clients or for the placement of funds in the country in the form of credits or investments, without engaging in deposit operations in the national territory.	Not bound Not bound At least 50 per cent of ownership of shares in banks or finance companies set up in El Salvador must be maintained for Salvadoran natural persons or Central American natural persons, when reciprocity exists in their country of origin. Creditors domiciled in El Salvador enjoy preferential rights over assets which a foreign financial institution owns in the country.
2. TELECOMMUNICATIONS SERVICES		None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures
2.A VALUE-ADDED SERVICES	(1)	Not bound	Not bound
Specifically: mobile telephone services (75213); business services by private satellite networks (75221, 75222); data transmission services (75231, 75232); programme transmission services (75241, 75242); paging services (75291); teleconferencing services (75292); radioelectric link concentration systems (75299); radio and television cable services (75300); equipment rental services (75410); equipment sales services (75420); connection services (75430); consulting services (75440); communications equipment maintenance services (75450)	(2) (3) (4)	None, except as specified under Horizontal Measures It is necessary to apply to ANTEL for a concession or licence to provide these services, and the applicant must be domiciled in El Salvador None, 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	Limitations on Market Access	Limitations on National Treatment
3. BUSINESS SERVICES			
3.a LEGAL SERVICES Specifically: legal advisory and information services (86190)	(1) (2) (3) (4)	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures
3.b ACCOUNTING AND AUDITING SERVICES Specifically: financial auditing services (86211); accounting review services (86212); book-keeping services, except tax returns (86220)	(1) (2) (3) (4)	Not bound Not bound None, except as specified under Horizontal Measures Not bound	Not bound Not bound None, except as specified under Horizontal Measures Not bound
3.c TAX ADVISORY SERVICES Specifically: business tax planning (86301); business tax return preparation (86302)	(1) (2) (3) (4)	Not bound Not bound None, except as specified under Horizontal Measures Not bound	Not bound Not bound None, except as specified under Horizontal Measures Not bound
3.d ARCHITECTURAL SERVICES Specifically: advisory and pre-design architectural services (86711); architectural design services (86712)	(1) (2) (3) (4)	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures Not bound	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures Not bound

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Activity or Sub-Activity	Mode of Delivery	Limitations on Market Access	Limitations on National Treatment
3.e ENGINEERING SERVICES Specifically: advisory and consultative engineering services (86721)	(1) None, except as specified under Horizontal Measures (2) None, except as specified under Horizontal Measures (3) None, except as specified under Horizontal Measures (4) Not bound	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures Not bound	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures Not bound
3.f DATA PROCESSING SERVICES Specifically: input preparation (84310); data processing (84320); time-sharing (84330); other data processing services (84390)	(1) None, except as specified under Horizontal Measures (2) None, except as specified under Horizontal Measures (3) None, except as specified under Horizontal Measures (4) None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures Not bound
3.g ADVERTISING SERVICES Specifically: sale of advertising space (87110); planning, creating and placement services of advertising (87120); other advertising services (87190)	(1) Not bound (2) Not bound (3) None, except as specified under Horizontal Measures (4) None, except as specified under Horizontal Measures	Not bound Not bound None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	Not bound Not bound None, except as specified under Horizontal Measures Not bound
4. AIRCRAFT AND SUPPORT SERVICES FOR AIR TRANSPORT			
(i) MAINTENANCE AND REPAIR SERVICES (74690)	(1) None, except as specified under Horizontal Measures (2) None, except as specified under Horizontal Measures (3) It is necessary to apply to the CEPA for the concession or licence to provide maintenance and repair services with the requirement that the applicant be domiciled in El Salvador (4) None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures

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Activity or Sub-Activity	Mode of Delivery	Limitations on Market Access	Limitations on National Treatment
(ii) SALE OR MARKETING OF TRANSPORT SERVICES	(1) Not bound (2) Not bound	Not bound None, except as specified under Horizontal Measures	Not bound None, except as specified under Horizontal Measures
Specifically: travel agency and tour operator services (74710); tourist guide services (74720)	(3) None, except as specified under Horizontal Measures (4) None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures
5. TOURISM SERVICES			
5.a HOTELS	(1) Not bound because not technically feasible	Not bound because not technically feasible	
Specifically: hotels (64110); motels (64120); other lodging services (64191), 64192, 64193, 64194, 64195, 64196, 64199)	(2) None, except as specified under Horizontal Measures (3) None, except as specified under Horizontal Measures (4) None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures
5.b RESTAURANTS	(1) Not bound because not technically feasible	Not bound because not technically feasible	
Specifically: food serving without self-service (64210, 64230, 64290); food serving with self-service (64220); beverage serving (64310, 64320)	(2) None, except as specified under Horizontal Measures (3) None, except as specified under Horizontal Measures (4) None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures
6. TRANSPORT SERVICES			
6.a RENTAL OF MOTOR-VEHICLES	(1) Not bound	Not bound	
(71222)	(2) None, except as specified under Horizontal Measures (3) None, except as specified under Horizontal Measures (4) None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures	None, except as specified under Horizontal Measures None, except as specified under Horizontal Measures

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Activity or Sub-Activity	Mode of Delivery	Limitations on Market Access			
		Limitations on National Treatment			
7. ENVIRONMENTAL SERVICES Specifically: cleaning services of exhaust gases (94040); noise abatement services (94050); nature and landscape protection services (94060); other environmental protection services (94090)	(1) Not bound (2) Not bound (3) It is necessary to apply to the municipal authorities for the concession or licence to provide refuse disposal services, with the requirement that the applicant be domiciled in El Salvador (4) Not bound	Not bound	Not bound	Not bound	Not bound