

WORLD TRADE ORGANIZATION

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Group on Basic Telecommunications

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COMMUNICATION FROM BRAZIL

Draft Schedule on Basic Telecommunications

Revision

The following communication is circulated at the request of Brazil to members of the Group on Basic Telecommunications.

1. The draft Schedule incorporates the following modifications to the Brazilian revised offer submitted on 10 February 1997 document (S/GBT/W/1/Add.28):

- (a) Taking into account the Chairman's Note of February 3, 1997 (S/GBT/W/3), Brazil eliminated from its schedule limitations referring to management of scarce resources. However, if a consensus on this matter is not reached before the end of the negotiations, Brazil reserves the right to reintroduce limitations in this regard.
- (b) The general condition referring to the supply of space segment facilities of foreign satellites was reworded in order to state even more clearly that the use of foreign satellites is permitted whenever they offer better conditions in technical, operational or commercial aspects. The new formulation is intended also to make it clear that superior conditions in only one of these aspects are sufficient to permit the use of foreign satellites.
- (c) A new general condition was added to make clear that telecommunications services supplied for distribution of radio or television programming directly to service consumers are not included in the schedule. This addition brings the schedule in line with the Brazilian regulations on the subject, which do not consider those services as basic telecommunications services.
- (d) Regarding limitations on Market Access and National Treatment for public services, a slight redrafting was provided with the introduction, in mode 3, of the word "except", with the aim to dissipate possible doubts about the status of the "phase-in arrangement" as an effective commitment by Brazil.
- (e) Interconnection between Closed Users Groups and public telecommunications transport networks and services (PTTNS) is now ensured in the additional commitments column. It was made clear that the conditions for the interconnection will have to do with the exercise of regulatory faculties.

2. This draft Schedule is conditional on the satisfactory conclusion of a multilateral agreement in basic telecommunications, and Brazil reserves the right to list MFN exemptions. Some or all of the commitments undertaken may be revised or withdrawn in any moment before the end of negotiations. Also, Brazil reserves the right to make technical changes to the draft schedule and to correct any errors, omissions or inaccuracies.

BRAZIL - REVISED DRAFT SCHEDULE

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>2.C. TELECOMMUNICATION SERVICES</p> <p>Commitments undertaken in this offer are subject to the following general conditions:</p> <p>(i) Each telecommunications service to be supplied in Brazil requires a specific governmental licence to be obtained through a transparent, objective and non-discriminatory process. Licences are not required for the supply of Value Added Services.</p> <p>(ii) Licences referred to in item (i) are granted only to juridical persons duly constituted according to the Brazilian legislation, which requires head office and management located in the Brazilian territory.</p> <p>(iii) EMBRATEL has exclusive rights to link with Intelsat and Inmarsat.</p> <p>(iv) The supply of space segment facilities of satellites that occupy orbital positions notified by foreign countries is allowed whenever they offer better technical, operational or commercial conditions. Otherwise, satellites that occupy orbital positions notified by Brazil must be used. Regulatory decisions on this regard will be based on a transparent, objective and non-discriminatory process.</p> <p>(v) This offer does not include telecommunications services supplied for distribution of radio or television programming for direct reception by service consumers.</p>			
<p>Public domestic and international services, provided using any network technology, on a facilities-basis:</p> <p>2.c.a. Voice telephone services</p> <p>2.c.b. Packet-switched data transmission services</p> <p>2.c.c. Circuit-switched data transmission services</p> <p>2.c.d. Telex services</p> <p>2.c.e. Telegraph services</p> <p>2.c.f. Facsimile services</p>	<p>(1) None, other than: international traffic shall be routed through a gateway in Brazil operated by a supplier duly licensed.</p> <p>(2) None</p> <p>(3) Unbound, except:</p> <p>Within one year after the enactment by the President of the Republic, of the present draft General Telecommunications Law, Brazil will introduce into its schedule commitments related to the supply of public telecommunications services binding the relevant parts in terms of Market Access of the new Law.</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) Unbound, except:</p> <p>Within one year after the enactment by the President of the Republic, of the present draft General Telecommunications Law, Brazil will introduce into its schedule commitments related to the supply of public telecommunications services binding the relevant parts in terms of National Treatment of the new Law.</p>	<p>Within one year after the enactment by the President of the Republic, of the present draft General Telecommunications Law, Brazil will introduce into its schedule Additional Commitments on regulatory principles, as emerging from the new Law, comprising competitive safeguards, interconnection, universal service, public availability of licensing criteria, independent regulator and the allocation and use of scarce resources.</p>

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Non-public domestic and international services, for Closed Users Groups, provided using any network technology, on a facilities-basis:</p> <p>2.C.a. Voice telephone services</p> <p>2.C.b. Packet-switched data transmission services</p> <p>2.C.c. Circuit-switched data transmission services</p> <p>2.C.d. Telex services</p> <p>2.C.e. Telegraph services</p> <p>2.C.f. Facsimile services</p> <p>2.C.g. Private leased circuit services</p>	<p>(4) Unbound except as indicated in the horizontal section.</p> <p>(1) None, other than: network facilities in Brazil shall be provided by a supplier duly licensed</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except as indicated in the horizontal section.</p>	<p>(4) Unbound except as indicated in the horizontal section.</p> <p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except as indicated in the horizontal section.</p>	<p>(i) Interconnection of Closed Users Groups' networks to the Public Telecommunications Transport Networks and Services (PTTNS) will be ensured on a non-discriminatory basis, subject to conditions established in the applicable regulations</p> <p>(ii) Regulatory functions are entrusted to the Ministry of Communications of Brazil, which has independent legal personality from the suppliers of telecommunications services.</p>

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>The following concept is applicable:</p> <p>Closed Users Group is a group of natural or juridical persons that performs a common specific activity, which is not susceptible to extension to the public in general.</p> <p>Value Added Services:</p> <p>2.C.h. Electronic mail</p> <p>2.C.i. Voice mail</p> <p>2.C.j. On-line information and data base retrieval</p> <p>2.C.k. Electronic data interchange (EDI)</p> <p>2.C.l. Enhanced/value-added facsimile services, including store-and-forward, store-and-retrieve</p> <p>2.C.m. Code and protocol conversion</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except as indicated in the horizontal section.</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except as indicated in the horizontal section.</p>	<p>(i) The use of PTNS will be ensured to any supplier of Value Added Services, according to the applicable regulations</p> <p>(ii) Regulatory functions are entrusted to the Ministry of Communications of Brazil, which has independent legal personality from the suppliers of telecommunications services</p>

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2.C.n. On-line information and/or data processing (including transaction processing) The following concept is applicable: Value Added Service is characterized by the addition of features to a telecommunications service that supports it, thus creating utilities related to the access, storage, presentation, transfer and retrieval of information.			

Modes of supply:

1)	Cross-border supply	2)	Consumption abroad	3)	Commercial presence	4)	Presence of natural persons
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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2.C.o. Other services: Analog/Digital Cellular mobile-service (800 MHz/terrestrial systems) - on a facilities-basis	(1) Unbound (2) None (3) None, other than: (i) Service is to be provided on a duopoly basis in each designated market; the local telephone company may be allowed to be one of the service suppliers, directly or through a subsidiary; (ii) Direct and indirect participation of foreign investment in the voting capital is limited to 49%; no restriction to foreign ownership for licences to be granted as from 20 July 1999. (4) Unbound except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	(i) Interconnection with PTTNS will be ensured. (ii) The general conditions for interconnection with PTTNS are publicly available. (iii) Regulatory functions are entrusted to the Ministry of Communications of Brazil, which has independent legal personality from the suppliers of telecommunications services.
Paging services (terrestrial systems) - on a facilities basis	(1) Unbound (2) None (3) None (4) Unbound except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	The regulatory functions are entrusted to the Ministry of Communications of Brazil, which has independent legal personality from the suppliers of telecommunications services.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>2.C.o. Other services (continued)</p> <p>Satellite telecommunications transport service.</p> <p>The following concept is applicable:</p> <p>Satellite telecommunications transport service is the supply of space segment facilities of geostationary orbit satellites (GSO) to duly licensed suppliers of services listed in this schedule.</p> <p>Note: The supply of space segment facilities of satellites that occupy orbital positions notified by other countries is contingent upon prior coordination with Brazil of their orbital positions and associated frequencies</p>	<p>(1) None, other than: The supplier of this service must have a branch or a representative office in Brazil, for all legal effects.</p> <p>(2) None</p> <p>(3) None, other than: The supply of space segment facilities of satellites that occupy orbital positions notified by Brazil requires that the satellite control stations be located in the Brazilian territory. Direct and indirect participation of foreign investment in the voting capital is limited to 49%; no restriction to foreign ownership for licences to be granted as from 20 July 1999.</p> <p>(4) Unbound except as indicated in the horizontal section</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except as indicated in the horizontal section.</p>	<p>Regulatory functions are entrusted to the Ministry of Communications of Brazil, which has independent legal personality from the suppliers of telecommunications services.</p>