

WORLD TRADE ORGANIZATION

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**Working Party on the
Accession of Nepal**

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ACCESSION OF THE KINGDOM OF NEPAL

Consolidated List of Specific Commitments in Services

Revision

The Government of the Kingdom of Nepal has submitted the attached Consolidated List of Specific Commitments in Services and List of Article II MFN Exemptions with a request that it be circulated to members of the Working Party.

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
I. HORIZONTAL COMMITMENTS			
All Sectors included in this Schedule	(1) and (2) Allocation of foreign currency for payment of foreign services suppliers subject to approval of Central Bank.	(1) None (2) None	
	<p>(3) None</p> <p>(4) Unbound, except for temporary entry and stay of natural persons of another Member in the following category based on economic need test:</p> <p><u>Service sales persons</u></p> <p>Persons not based in the territory of Nepal and receiving no remuneration from a source located within Nepal, who are engaged in activities related to representing a service supplier for the purpose of negotiating for the sale of services of that supplier where:</p> <p>a. such sales are not directly made to the general public, and</p> <p>b. the sales person is not engaged in supplying the service.</p> <p>Entry for persons named in these two categories is limited to a ninety-day period.</p>	<p>(3) None, except:</p> <ul style="list-style-type: none"> - A foreign investor reinvesting earnings is required to obtain the permission of the Department of Industry; - All foreign investments except for Financial Services require approval by the Department of Industry; and - Incentives and subsidies are available only to nationals. <p>(4) Unbound except for measures concerning the categories of natural person referred to in the market access column</p> <p>Selling and buying real estate is the constitutional right of every Nepalese citizen. The Civil Code prohibits anyone from selling, mortgaging, gifting or endowing or disposing any real property to a foreign individual.</p>	<p>Except where an environmental impact assessment is required, decisions of the Department are normally provided within 30 days of the date of application.</p> <p>Approval of an investment will not normally be withheld except for failure to meet environmental standards.</p> <p>A foreign investor making an investment in foreign currency shall be entitled to repatriate the following amount outside Nepal:-</p> <p>a) The amount received by the sale, in whole or part, of the investors share of equity;</p> <p>b) The amount received as profit or dividend as a result of an equity investment;</p> <p>c) The amount received as the payment of the principal of and interest on any foreign loan; and</p> <p>d) The amount received under an agreement to transfer technology approved by the Department of Industries or the Department of Cottage and Small Industries.</p>

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
	<p><u>Person responsible for the setting up a commercial presence</u></p> <p>Persons who are employees of an enterprise not having commercial presence in Nepal and who stay temporarily in Nepal for the purpose of setting up a commercial presence of that enterprise in Nepal. Personnel engaged in setting up commercial presence shall present proof of the commencement of business operation within one year of the date of entry of that person.</p> <p>Entry for the above-listed persons is limited to a one year period.</p> <p><u>Intra-corporate transferees</u></p> <p>Managers, executives and specialists as defined below who are employees of firms that provide services in Nepal through a branch, subsidiary or affiliate established in Nepal and who have been in the prior employment of their firm outside Nepal for a period of not less than one year immediately preceding the date of their application for admission and who fall with one of the following categories:</p> <p>(a) <u>Executives and Managers:</u></p> <p>Persons within an organization who primarily direct the organization or a department or sub-division of the organization, supervise or control the work of their supervisory, professional or managerial employees, have the authority to hire and fire or recommend</p>		

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
	<p>hiring, firing or other personnel actions (such as promotion, or leave authorization) and exercise discretionary authority over day-to-day operations.</p> <p>(b) <u>Specialists</u>:</p> <p>Persons within an organization who possess technical knowledge at an advanced level of continued expertise and who possess propriety knowledge of the organization's services, research techniques or management techniques. (Specialists may include but are not limited to members of licensed professions.)</p> <p>Entry for the above-listed categories of intra-corporate transferees is limited to a three years initial period that may be extended for up to seven years for a total period not to exceed ten years.</p>		

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
II. SECTOR SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. Professional Services			
(a) Legal Services	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section. Court appearance in Nepalese courts will be allowed with the permission of Supreme Court.	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(b) Accounting, auditing and book-keeping services - <u>Accounting and auditing services</u> i. Financial auditing services (CPC 86211) ii. Accounting Review services (CPC 86212) iii. Compilation of financial statement services	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent. (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	Nepal undertakes additional commitments to adopt WTO Accounting Disciplines within five years from the date of accession.

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
(d) Architectural Services (CPC 8671)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 66 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(e) Engineering services (CPC 8672) as specified below: - Engineering design services for the construction of civil engineering works (CPC 86724) - Engineering design services for industrial processes and production (CPC 86725) - Other engineering services during the construction and installation phase (CPC 86727) - Other engineering services (CPC 86729)	(1) None (2) None (3) None, except only through incorporation in Nepal and with a maximum foreign equity capital of 66 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
(f) Integrated engineering Services (CPC 8673)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 66 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(g) Urban planning and landscape architectural services (CPC 8674)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 66 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(i) Veterinary services (CPC 932)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section.	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
B. Computer and Related Services			
a. Consultation services related to the installation of computer hardware (CPC 841)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 80 per cent	(1) None (2) None (3) None	
b. Software implementation services (CPC 842)	(4) Unbound, except as indicated in the horizontal section	(4) Unbound, except as provided under horizontal section	
c. Data processing services (CPC 843)			
d. Data base services (CPC 844)			
e. Maintenance and repair service of office machinery and equipment including computers (CPC 845)			
f. Other computer services - Data preparation services (CPC 8491) - Other computer services (CPC 8499)			

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
C. Research and Development Services			
a. R&D services on natural science	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51 per cent (4) Unbound, except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section.	
- Heat, light, electromagnetism, astronomy but excluding atomic energy and related matters (CPC 85101)			
- Engineering and technology, including applied science and technology for casting, metal, machinery, electricity, communications, vessels, aircrafts, civil engineering, construction, information etc. (CPC 85103)			

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
F. Other Business Services			
(b) Market research and public opinion polling services (CPC 864)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(c) Management consulting service (CPC 865)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(e) Technical testing and analysis services (CPC 8676)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(h) Services incidental to mining (CPC 883+5115)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(m) Related scientific and technical consulting services (CPC 8675)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
(q) Packaging services (CPC 876)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(r) Printing, publishing (CPC 88442)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(s) Convention Services (CPC 87909)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES			
C. Telecommunication Services			
- Basic Telecommunications			
(a) Local telephone service (b) Domestic telephone service (c) International telephone services (d) Telex service (e) Domestic and international telegraph service	(1) None (2) None (3) None, except: The license to operate any telecommunications service is issued by the Nepal Telecommunication Authority (NTA) A license will be issued to one extra service provider in addition to Nepal Telecommunications Corporation (NTC) no later than 2003 subject to the following conditions: Foreign participation permitted through a joint venture with up to 80% equity participation. License issued for an initial period of ten years. Renewable for each additional five year periods. The period of license is 25 years including initial period. Licensee will be able to provide international telecommunications services to its own customers through its own network by the end of 2003. Licensee will be empowered to lease lines to other services providers and users by the end of 2003. Terms of inter-connection between NTC and licensee to be negotiated. In case settlement is	(1) None (2) None (3) None, except the majority of the members of the Board of Directors of a joint venture should be Nepalese nationals.	Nepal undertakes additional commitments as contained in the Telecommunication Reference Paper attached to this Schedule of specific Commitments.

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
	<p>not reached, Nepal Telecommunication Authority will arbitrate and its decision will be binding to both the parties.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(4) Unbound, except as indicated in horizontal section and consultants not available in Nepal may enter to work for 90 days.</p>	
Mobile Telephone Service	<p>(1) None (2) None (3) None, except:</p> <ul style="list-style-type: none"> - The license to operate is issued by the Nepal Telecommunication Authority (NTA) - Foreign participation permitted through a joint venture with up to 80% equity participation. <p>License issued for an initial period of ten Years. Renewable for each additional five year periods. The period of license is 25 years including initial period.</p> <p>Mobile operators will be permitted to operate international services by 2004.</p> <p>(4) Unbound, except as indicated in horizontal section.</p>	<p>(1) None (2) None (3) None</p> <p>(4) Unbound, except as indicated in horizontal section and consultants not available in Nepal may enter to work for 90 days.</p>	<p>Nepal undertakes additional commitments as contained in the Telecommunication Reference Paper attached to this Schedule of specific Commitments</p> <p>By 2004 two mobile operators will be licensed to operate Global Mobile System (GMS). One operator will be selected through bidding process. The other operator will be the Nepal Telecommunications Corporation that will operate its Mobile System under the same terms of service as the second operator.</p>

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
Value-added telecommunications			
(a) Internet including e-mail	(1) None	(1) None	<p>Nepal undertakes additional commitments as contained in the Telecommunication Reference Paper attached to this Schedule of specific Commitments</p> <p>After 2004 VSAT operators will be permitted by the Regulatory Authority based on the preference of the service provider to provide data or voice services but not both.</p>
(b) E.mail	(2) None	(2) None	
(c) Voice mail	(3) None, except:	(3) None	
(d) Video text			
(e) Fax mail	- The license to operate is issued by the Nepal Telecommunication Authority (NTA).		
(f) VSAT	- Foreign participation permitted through a joint venture with up to 80% equity participation.		
(g) Audio Conference	- License issued for an initial period of five years. Renewable for each additional five year periods up to a maximum of 20 years.		
(h) Pay phone			
(i) Pre-paid calling card			
(j) Local data communication			
(k) Radio paging			
(l) Trunked mobile			
	(4) Unbound, except as indicated in the horizontal section	(4) Unbound, except as indicated in horizontal section and consultants not available in Nepal may enter to work for 90 days.	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES			
(b) General construction work for civil engineering (CPC 513)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
(e). Other (CPC 8929)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in horizontal section.	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section.	
4. DISTRIBUTION SERVICES			
(a). Commission agent's services (CSC 621)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
(d). Franchising (CSC 8929)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
5. EDUCATIONAL SERVICES			
(c). Higher Education services (CPC 923) (d). Adult Education Services (CPC 924) (e). Other Education (CPC 929)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	
6. ENVIRONMENTAL SERVICES			
(a). Sewage Services (CPC 9401) (b). Refuse disposal services (CPC 9402) (c). Sanitation and similar Services (CPC 9403)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in horizontal section	

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
7. FINANCIAL SERVICES			
<u>General Conditions</u>			
<p>The commitments in financial services are made in accordance with the General Agreement on Trade in Services and the Annex on Financial Services. All the commitments are subject to entry requirements, domestic laws, rules and regulations and the terms and conditions of the Nepal Rastra Bank (the Central Bank of Nepal), Insurance Board and any other competent authority in Nepal, as the case may be, which are consistent with Article VI of the GATS and paragraph 2 of the Annex on Financial Services.</p> <p>The commitments in Financial Services are given to the nationals and financial institutions of the Members whose laws and policies do not bar the provision of similar commitments to the Nepalese nationals and financial institutions.</p> <p>Financial Services in the form of operations identified below in the Schedule can be carried out in Nepal through a locally incorporated company. Only a licensed commercial bank, a licensed specialized bank or a registered finance company may accept deposits. Only a licensed commercial bank may accept deposits which are repayable upon demand. Approval, registration and licensing relating to foreign banks and other financial institutions will be subject to an economic needs test as applicable to domestic commercial banks and other financial institutions. Only financial institutions with rating of at least 'B' by Credit Rating Agency e.g. Moody's, Standard & Poor can have commercial presence in Nepal. The total foreign shareholding in any institution providing financial services is limited to 51 per cent of the issued share capital. It has, nevertheless, been bound for the existing foreign financial service providers as to their scope of operation and equity structure. The shares held by foreign nationals and foreign financial institutions in their locally incorporated companies are not transferable without the prior written approval of the Nepal Rastra Bank (the Central Bank) or any other competent authority as the case may be. Representative offices may not engage in commercial business. The majority of the members of the Board of Directors of the company should be Nepalese nationals.</p>			
A. Insurance and Insurance Related Services			
I. Direct Insurance			
(a) Life	(1) None (2) None (3) None, except - As indicated in general conditions. - New establishments are subject to licences approved by Insurance Board and/or His Majesty's Government of Nepal. (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None, except as indicated in general conditions and horizontal section (4) Unbound, except as indicated in horizontal section.	

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
(b) Non-life	(1) None (2) None (3) None, except: - As indicated in general conditions. - New establishment is subject to licence approved by Insurance Board and/or His Majesty's Government of Nepal, if necessary economic needs test. (4) Unbound, except as indicated in the horizontal section.	(1) None (2) None (3) None, except as indicated in general conditions and horizontal section. (4) Unbound, except as indicated in horizontal section.	
II. Re-insurance and Retrocession	(1) Reinsurance can be taken with foreign re-insurers to the extent of the residual uncovered risk after obligatory or statutory placement with domestic insurance company. (2) Reinsurance can be taken with foreign reinsurance to the extent mentioned above. (3) Unbound (4) Unbound, except as indicated in the horizontal section.	(1) None (2) None (3) Unbound (4) Unbound, except as indicated in the horizontal section	

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
B. Banking and Other Financial Services			
(a) Acceptance of deposits and other repayable funds from the public	(1) Unbound (2) Unbound (3) None, except as indicated in general conditions.	(1) None (2) None (3) None, except as specified in the general conditions and horizontal section	
(b) Lending of all types, including, inter-alia, consumer credit, mortgage credit, factoring and financing of commercial transactions (c) Financial leasing (d) All payment and money transmission services (e) Guarantees and commitments (f) Trading for own account or for account of customers, whether on an exchange, an over-the-counter market or otherwise, the following: - money-market instruments (cheques, bills, certificates of deposits, etc.) - foreign exchange - exchange rate and interest rate instruments, other than swap. - transferable securities	(4) Unbound, except as specified in the horizontal section.	(4) Unbound, except as indicated in horizontal section.	

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
<ul style="list-style-type: none"> - other negotiable instruments and financial assets, including bullion. (g) Participation in issues of all kinds of securities, including under-writing and placement as agent (whether publicly or privately) and provision of service – related to such issues. (h) Money broking (i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services. (k) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services. (l) Advisory services on all the activities listed above. 			
8. HEALTH RELATED AND SOCIAL SERVICES			
(A) Hospital Services (CPC 9311)	<ul style="list-style-type: none"> (1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 51 per cent. (4) Unbound, except as indicated in the horizontal section <p>Medical Experts can work with the permission of Nepal Medical Council maximum of one year.</p>	<ul style="list-style-type: none"> (1) None (2) None (3) None 4) Unbound, except as indicated in horizontal section 	

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
9. TOURISM AND TRAVEL RELATED SERVICES			
(a) Tourism and restaurants Hotel, lodging services (CPC 6411) (star hotels only)	(1) None (2) None, except convertible currency limit on foreign tourist travel of US \$700 per annum.	(1) None (2) None (3) None	
(b) Travel agency and tour operator (CPC 7471)	(3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent. (4) Unbound, except as indicated in the horizontal section	(4) Unbound, except as indicated in horizontal section	
11. TRANSPORT SERVICES			
C. Air Transport Services			
(d) Maintenance and repair of aircraft (CPC 8868)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	
Computer reservation system (as defined in the Annex in Air Transport)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
Services Auxiliary to all modes of supply (only storage and warehouse services)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	
(g) Pipeline transport (CPC 7131, 7139)	(1) None (2) None (3) None, except only through incorporation in Nepal and with maximum foreign equity capital of 49 per cent (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	

Lists of Article II MFN Exemptions

Sector or Sub-Sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended Duration	Conditions creating the need for the exemption
All Sectors	Allocation of non-convertible currency effected by commercial banks without involvement of Central Bank.	India	Indefinite	To facilitate border traffic and regional integration by providing for full current account convertibility of Nepalese rupees into Indian rupees
Tourism	Higher allocation of convertible currency for travel purposes.	All OECD countries.	Indefinite	To reflect higher board and lodging costs in countries mentioned
Insurance	Approval of application for establishment dependent on reciprocal treatment.	All countries	Indefinite	Promote equitable treatment for Nepalese insurers seeking to establish abroad.

TELECOMMUNICATION REFERENCE PAPER

- Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

- Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that:

- are exclusively or predominantly provided by a single or limited number of suppliers; and
- cannot feasible be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- a) control over essential facilities; or
- b) use of its position in the market

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, along or together, are major suppliers from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- engaging in anti-competitive cross-subsidization;
- using information obtained from competitors with anti-competitive results; and
- not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- at any time;
- after a reasonable period of time which has been made publicly known; or
- to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a license is required, the following will be made publicly available:

- all the licensing criteria and the period of time normally required to reach a decision concerning an applicable for a license; and
- the terms and conditions of individual licenses.

The reasons for the denial of a license will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, number and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.
