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## **GATS 2000**

### **REQUEST FROM THE EC AND ITS MEMBER STATES (HEREAFTER THE EC)**

**TO**

**ZAMBIA**

#### **GENERAL REMARKS**

At the WTO Ministerial Conference in Doha in November 2001, ministers agreed that initial requests for specific commitments should be submitted by 30 June 2002.

In line with this decision, and committed to the objectives and principles stated in Article IV and XIX GATS, the EC encourages Zambia to participate actively in the negotiations.

The EC considers that the progressive liberalisation of services is of benefit for all members, including developing and least developed countries. In this context, the EC recognises the importance of liberalisation being underpinned by domestic regulatory frameworks designed to ensure the achievement of public policy objectives. Liberalisation of trade in services, in particular infrastructure-related services, allows better access to high-quality services which benefit the whole economy by increasing productivity in all sectors. This will contribute to achieving the objectives of Article IV of GATS, through strengthening the domestic services capacity to increase the efficiency and competitiveness of the services sector. This will benefit both domestic producers and consumers, and will help to build up productive and export capacity throughout the economy.

The EC therefore proposes that Zambia's current GATS commitments are revised so as to improve commitments and reduce scheduled limitations whether these are horizontal or sector specific in nature. In so doing, the EC is not seeking the dismantling of public services nor the privatisation of state owned companies.

The EC suggests that Zambia undertakes or improves its commitments for market access and national treatment in the following sectors:

- Professional services
- Business services
- Telecommunication services

- Financial services

For ease of reference, we attach a list of specific requests for these sectors. The EC is ready to discuss these requests with Zambia's delegation.

The EC also invites Zambia to take horizontal commitments for the supply of services under mode 4. For this purpose, we attach a specific request for this mode of supply.

The Negotiating Guidelines stipulate that there shall be 'flexibility for individual developing country Members (...) progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV'. The EC is prepared to discuss the attachment to market access and national treatment commitments, which will be offered by Zambia as a result of this request, of such conditions. The EC is also willing, in appropriate cases, to consider transitional periods for implementing liberalisation commitments, provided they are clearly recorded in schedules of commitments.

The EC suggests that commitments are entered in accordance with the scheduling guidelines adopted by the Council of Trade in Services on 23 March 2001 (S/L/92). In particular, for each commitment or limitation entered the EC proposes:

- that the sector and sub-sector are clearly identified in accordance with the classification list in document MTN.GNS/W /120 or other internationally recognised classification (e.g. Financial Services Annex). If this is not possible, the schedule should contain a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.
- that any remaining limitation on market access (hereafter "MA ") or on national treatment (hereafter "NT") are clearly described and only be inscribed in the market access or national treatment columns if the measure is of a nature foreseen by Articles XVI-XVII GATS.

In conformity with the objectives set out in the EC overall approach to services negotiations (document S/CSS/W /15), the EC reiterates its commitment to promote regulatory disciplines in accordance with Article VI:4 of the GATS. The EC, however, reserves the right to address at any time to Zambia specific requests concerning regulatory issues.

The EC remains available to provide any clarification and answer any question on this request. Questions can be addressed to the European Commission via the EC GATS contact point (mailbox address: [TRADE-GATS-CONTACT-POINTS@cec.eu.int](mailto:TRADE-GATS-CONTACT-POINTS@cec.eu.int)), via the Delegation of the European Commission in Geneva, or directly to the

European Commission (Directorate-General Trade, Unit D2 (Trade in services, including e-commerce), Brussels, B-1049, Belgium, fax 32-2-299 24 35).

*Note: The EC reserves the right to revise and/or supplement this request. For each service sector, W120 classification has been followed unless expressly indicated and CPCs refer to the provisional CPC classification. The precise scope for each sector is without prejudice to the EC's final position on classification issues and to the EC's classification of their existing commitments.*

# HORIZONTAL COMMITMENTS

## EC REQUEST TO ZAMBIA

### MODE 4

#### Definitions

- It is not clear what is meant by “management and expert jobs”. **EC Request:** Define these terms in the schedule.

#### Intra-corporate transferees

An intra-corporate transferee (ICT) is an employee of a foreign firm, who is temporarily transferred to an affiliate of that firm (branch subsidiary, office, joint venture etc.) in Zambia. The EC considers that Zambia’s current commitments cover intra-corporate transferees who are in “management and expert jobs”. **EC request:**

- Minimum prior employment requirement not specified. **EC Request:** Indicate in schedule.
- Maximum length of stay not specified. **EC Request:** Indicate in schedule.
- Degree of affiliation between companies which is required in order for a transfer to be covered by provisions on intra-corporate transferees is not clear. **EC Request:** Clarify
- Requirement that the conditions for employment of foreign nationals be “agreed upon by the contracting parties and approved by Government (sic)”. **EC Request:** Please clarify what this means in practice for the employment of foreign nationals. Make a commitment exempting ICTs from the application of any Economic Needs Test or equivalent measure.
- Make a commitment to allow as intra-corporate transferees without requiring an economic needs test « persons with a university degree or equivalent technical qualification who are transferring for career development purposes or to obtain training in business techniques or methods »

#### Business Visitors

A Business Visitor is a representative of a foreign services supplier who is seeking temporary entry into the territory of Zambia for one of the following purposes: (a) to hold meetings and/ or to negotiate the sale of services; (b) to conclude contracts to sell services; or (c) to set up a Mode 3 presence. A Business Visitor does not himself directly provide services or sell to the public. Business Visitors are usually granted entry for 90 days periods at a time. Zambia has made no commitments in relation to Business Visitors. **EC request:**

- Make a commitment relating to Business Visitors who are not entering to themselves supply a service, but rather to carry out one of the activities listed above. No restrictions should apply to the entry of Business Visitors and the maximum length of stay should be at least 90 days in any 12 month period.

*Note: Mode 4 is covered horizontally in this part for all service sectors. The sectoral requests in the following pages only refer to mode 4 when specifically related to one particular service sector.*

## **PROFESSIONAL SERVICES**

### **EC REQUEST TO ZAMBIA**

Zambia has only partially committed this sector. The EC requests that it be committed as follows:

#### **A. LEGAL SERVICES (CPC 861)**

- Commit covering at least consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified, lawyers
- Mode 3: Take full commitments, i.e. schedule "none" under MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

#### **E. ENGINEERING SERVICES (CPC 8672) AND F. INTEGRATED ENGINEERING SERVICES (CPC 8673)**

- Mode 3: Allow foreign presence through different types of legal entities (at least joint ventures with national companies)
- Mode 4: Commit as referred to in the section "Horizontal commitments"

## **BUSINESS SERVICES (OTHER THAN PROFESSIONAL)**

### **EC REQUEST TO ZAMBIA**

#### **B. COMPUTER AND RELATED SERVICES**

##### **Computer and Related Services (CPC 84)**

- Modes 1, 2, 3: Take full commitments, i.e. schedule "none" under MA and NT;
- Mode 4: Commit as referred to in the section "Horizontal Commitments".

#### **F. OTHER BUSINESS SERVICES**

Zambia has partially committed this sector. **EC requests:**

- c) Management consulting service (CPC 865)**
- d) Services related to management consulting (CPC 866)**

The above two sub-sectors have not been committed. For each sub-sector:

- Modes 1, 2, 3: Take full commitments, i.e. schedule "none" under MA and NT;
- Mode 4: Commit as referred to in the section "Horizontal Commitments".

## **TELECOMMUNICATION SERVICES**

### **EC REQUEST TO ZAMBIA**

A competitive telecommunications market reduces costs for industry and private users, and facilitates and improves communication between both businesses and individuals. This enables companies in all sectors to react more quickly and adequately to the needs of consumers, to gain efficiency, raise their productivity and provide more goods and services more efficiently and at a better price. In particular, investments in this sector stimulate the development of electronic commerce, which can spur growth in almost all services sectors, regardless of the level of development of the country.

However, in order to achieve a really competitive telecommunications market in terms of price and supply, an adequate regulatory framework must be put in place, along the lines of the reference paper drafted during the telecommunications negotiations concluded in 1997. Such a regulatory framework is the necessary catalyst, if properly enforced, for competition to bear fruit where it is allowed.

Accordingly the EC suggests that Zambia take commitments in this sector

- first, by committing to open a number of sub-sectors to full competition and to foreign investment, particularly data transmission related services which provide the key infrastructure that benefits the rest of the economy. Thus, the schedule should read “None” for market access and national treatment in the following sub-sector: (CPC 7523) data and message transmission services.

As regards voice services, the EC suggests to allow competition (i.e. the schedule should read “None” for market access and national treatment) at least in mobile services.

- second, by committing to the reference paper of the Basic Telecommunications negotiations, as additional commitments.

# FINANCIAL SERVICES

## EC REQUEST TO ZAMBIA

### GENERAL

- **EC Request:** Follow the classification of the Annex on Financial Services.

### INSURANCE

- **EC Request:** Commit direct insurance (life and non-life) in mode 3.
- **EC Request:** Commit reinsurance and retrocession in mode 1.

### BANKING AND OTHER FINANCIAL SERVICES

- **EC Request:** Commit acceptance of deposits, lending of all types, financial leasing, all payment and money transmission services, and guarantees and commitments in mode 3.
- **EC Request:** Commit provision and transfer of financial information, and advisory and other auxiliary financial services in mode 1.