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COSTA RICA

Conditional Initial Offer

The following communication, dated 1 April 2004, from the delegation of Costa Rica is being circulated to the members of the Council for Trade in Services.

Introduction

1. Pursuant to Article XIX of the General Agreement on Trade in Services (GATS) and paragraphs 7 and 15 of the Doha Ministerial Declaration on the negotiation of specific commitments and the submission of initial offers within the framework of the GATS, Costa Rica hereby submits its conditional initial offer of specific commitments in services and its list of exemptions to most-favoured-nation treatment.

2. Costa Rica points out that this is a conditional initial offer, subject to the progress made and agreements reached in the framework of negotiations under the Doha Work Programme and in the Council for Trade in Services and its subsidiary organs. It therefore reserves the right to revise, modify or supplement this offer, including technical revisions or modifications, at any time prior to the conclusion of the negotiations in the WTO.

3. For the preparation of this initial offer of specific commitments, Costa Rica based itself on the Services Sectoral Classification List (MTN.GNS/W/120).

COSTA RICA – CONDITIONAL INITIAL OFFER

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

| Sector or Subsector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|---|---|---|------------------------|
| I. HORIZONTAL COMMITMENTS | | | |
| ALL SECTORS INCLUDED IN THIS SCHEDULE | <p>(3) None</p> <p>(4) Unbound, except for measures affecting the entry and temporary stay of managers, administrative directors, supervisors and general executives of enterprises, provided that there are not more than two in each enterprise.</p> | <p>(3) The law provides restrictions on the participation of foreign natural and/or legal persons in the concessions which the State may grant with respect to the 200-metre wide strip along the Atlantic and Pacific coasts of the Republic, the "land maritime zone".</p> <p>(4) Unbound, except for measures affecting natural persons in the categories mentioned in the market access column.</p> | |
| II. SECTOR/SPECIFIC COMMITMENTS | | | |
| <p>I. BUSINESS SERVICES</p> <p>B. <u>Computer and related services</u></p> <p>(a) Consultancy services related to the installation of computer hardware (CPC 841)</p> | <p>(1) None Unbound</p> <p>(2) None</p> <p>(3) None Unbound</p> <p>(4) Unbound, except as indicated in the horizontal section.</p> | <p>(1) None Unbound</p> <p>(2) None</p> <p>(3) None Unbound</p> <p>(4) Unbound, except as indicated in the horizontal section.</p> | |

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|--|--|--|------------------------|
| (b) Software implementation services (CPC 842) | (1) None Unbound (2) None (3) None Unbound (4) Unbound, except as indicated in the horizontal section. | (1) None Unbound (2) None (3) None Unbound (4) Unbound, except as indicated in the horizontal section. | |
| (c) Data processing services (CPC 843) | (1) None Unbound (2) None (3) None Unbound (4) Unbound, except as indicated in the horizontal section. | (1) None Unbound (2) None (3) None Unbound (4) Unbound, except as indicated in the horizontal section. | |
| (d) Data base services CPC 844) | (1) None Unbound (2) None (3) None Unbound (4) Unbound, except as indicated in the horizontal section. | (1) None Unbound (2) None (3) None Unbound (4) Unbound, except as indicated in the horizontal section. | |
| (e) Other (CCP 845 + 849) | (1) None (2) None (3) None (4) None | (1) None (2) None (3) None (4) None | |
| 5. EDUCATION SERVICES ¹ | | | |
| A. <u>Primary education services</u> (CPC 921) | (1) Unbound (2) None (3) Unbound (4) The Higher Council for Education participates in matters relating to teachers and other staff of educational institutions. | (1) Unbound (2) None (3) Unbound (4) The Higher Council for Education participates in matters relating to teachers and other staff of educational institutions. | |

¹ The Constitution recognizes that education is a public service, and therefore all private educational centres are subject to State inspection.

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|--|---|---|------------------------|
| B. <u>Secondary education services</u> (CPC 922) | <ul style="list-style-type: none"> (1) Unbound (2) None (3) Unbound (4) The Higher Council for Education participates in matters relating to teachers and other staff of educational institutions. | <ul style="list-style-type: none"> (1) Unbound (2) None (3) Unbound (4) The Higher Council for Education participates in matters relating to teachers and other staff of educational institutions. | |
| C. <u>Other higher education services</u> (CPC 92390) | <ul style="list-style-type: none"> (1) Unbound (2) Unbound (3) The establishment of public limited companies or any type of commercial enterprise for the purpose of providing university education is prohibited. The National Council of University Higher Education (CONESUP) authorizes the establishment and operation of private universities in the country (including fees, plans, study programmes, supervision, etc.) and is responsible for approving the teaching staff and executives of such universities. (4) Foreigners wishing to provide such services are required by law to be members of the Professional College. To this end they must fulfil the requirements of nationality and residence. In some cases, the recruitment of foreign professionals by State institutions is possible only when there are no Costa Ricans ready to provide the service in the necessary conditions. <i>(Also limits national treatment)</i> | <ul style="list-style-type: none"> (1) Unbound (2) Unbound (3) Unbound (4) Unbound, except as indicated in the market access column. Foreigners wishing to provide such services are required by law to be members of the Professional College. To this end they must fulfil the requirements of nationality and residence. In some cases, the recruitment of foreign professionals by State institutions is possible only when there are no Costa Ricans ready to provide the service in the necessary conditions. | |

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

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|---|--|--|------------------------|
| <p>7. <u>FINANCIAL SERVICES</u></p> <p>The definition and scope of the sectors and subsectors in this Schedule of Commitments are to be understood as being consistent with the definition and scope established by Costa Rican law for each sector or subsector.</p> | | | |
| For all sectors and subsectors included in this Schedule: | (3) Only the establishment of companies in the form of affiliated companies or subsidiaries is permitted, and other forms are excluded, particularly branches. This does not prevent the operation of representative offices, which may not provide financial services in Costa Rica. The commercial presence shall be carried out in accordance with the purpose specifically authorized for the affiliated company or subsidiary concerned, which must adopt the corporate form required by the Costa Rican legal system for that purpose. | | |
| Banking and other financial services (excluding insurance): | | | |
| <p>(a) Acceptance of deposits and other repayable funds from the public.</p> <p>(b) Lending of all types, including, <i>inter alia</i>, consumer credit, mortgage credit, factoring and financing of commercial transactions.</p> | <p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) None</p> <p>(4) Unbound, except as indicated in the horizontal section.</p> | <p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) None</p> <p>(4) Unbound, except as indicated in the horizontal section.</p> | |

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|---|--|---|------------------------|
| (c) Credit card services: services consisting in the financing of the purchase of products using credit cards or other types of plastic money. | | | |
| (d) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services. | (1) None (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. | |
| (e) Financial leasing services | (1) Unbound (2) Unbound (3) None, except that commercial banks and non-bank finance companies may not provide financial leasing services, since there are legal restrictions on the acquisition of movable and immovable property by such entities. (4) Unbound, except as indicated in the horizontal section. | (1) Unbound (2) Unbound (3) None (4) Unbound, except as indicated in the horizontal section. | |

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|--|--|--|------------------------|
| 8. HEALTH AND SOCIAL SERVICES A. <u>Hospital services</u> (CPC 9311) | (1) Unbound* (2) None (3) Unbound (4) Unbound | (1) Unbound* (2) None (3) Unbound (4) Unbound | |
| Medical and dental services (CPC 9312) | (1) Unbound (2) None (3) Unbound (4) Foreigners wishing to provide such services are required by law to be members of the Professional College. To this end they must fulfil the requirements of nationality and residence. In some cases, the recruitment of foreign professionals by State institutions is possible only when there are no Costa Ricans ready to provide the service in the necessary conditions. | (1) Unbound (2) None (3) Unbound (4) Foreigners wishing to provide such services are required by law to be members of the Professional College. To this end they must fulfil the requirements of nationality and residence. In some cases, the recruitment of foreign professionals by State institutions is possible only when there are no Costa Ricans ready to provide the service in the necessary conditions. | |
| 9. TOURISM AND TRAVEL RELATED SERVICES A. <u>Hotels and restaurants</u> Hotels and other lodging services (CPC 641) | (1) Unbound (2) None (3) Unbound (4) Unbound | (1) Unbound* (2) None (3) Unbound, except as indicated in the horizontal section (4) Unbound | |

* Unbound due to lack of technical feasibility.

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| Food-serving services (CPC 642) | (1) Unbound (2) None (3) In order to prove that it is a tourist enterprise, an enterprise must meet certain requirements, such as prove that earnings received or estimated from the sale of food amount to at least 50 per cent of total sales, not including the cost of admission charges, table reservations or other similar charges. (4) Unbound | (1) Unbound (2) None (3) Unbound, except as indicated in the horizontal section (4) Unbound | |
| B. <u>Travel agencies and tour operators services</u> (CPC 7471) | (1) Unbound (2) Unbound (3) None Foreign investors can hold up to 49 per cent of the equity of such enterprises (4) Unbound | (1) Unbound (2) Unbound (3) None Foreign investors can hold up to 49 per cent of the equity of such enterprises (4) Unbound | |
| C. <u>Tourist guide services</u> (CPC 7472) | (1) Unbound (2) None (3) The right to exercise this activity is reserved to Costa Rican nationals (4) Limited to Costa Rican service providers | (1) Unbound (2) Unbound (3) The right to exercise this activity is reserved to Costa Rican nationals (4) Limited to Costa Rican service providers | |
| D. <u>Other services related to tourism</u> | | | |
| Leasing or rental services concerning private cars without operator (CPC 83101) | (1) Unbound (2) None (3) Unbound (4) None Unbound | (1) Unbound (2) None (3) Unbound (4) None Unbound | |

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| Tourist boat rental services (CPC 96499) | (1) Unbound (2) None (3) Unbound (4) None Unbound | (1) Unbound (2) None (3) Unbound (4) None Unbound | |
| Computer reservation services | (1) Unbound (2) None (3) Unbound (4) None Unbound | (1) Unbound (2) None (3) Unbound (4) None Unbound | |
| 10. TRANSPORT SERVICES | | | |
| C. <u>Air transport services</u> | | | |
| Maintenance and repair of aircraft (8868) | (1) Unbound* (2) None (3) None (4) None | (1) Unbound* (2) None (3) None (4) None | |

* Unbound due to lack of technical feasibility.

COSTA RICA – FINAL LIST OF ARTICLE II (MFN) EXEMPTIONS

| Sector or subsector | Description of measure indicating its inconsistency with Article II | Countries to which the measure applies | Intended duration | Conditions creating the need for the exemption |
|--|---|--|-------------------|--|
| BUSINESS SERVICES Professional services* | A foreign professional may become a member of the corresponding professional college only if there is a reciprocal agreement in force with his or her country of origin and/or in certain cases if Costa Rican nationals may exercise the profession in similar circumstances in his or her country of origin. | El Salvador, Guatemala, Honduras and Nicaragua** | Indefinite | Need to ensure minimum standards of quality for professional services. |
| OTHER BUSINESS SERVICES Advertising services | Import of commercial shorts from outside Central America is subject to a tax of 100 per cent of value but the tax may not be less than 10,000 colones or more than 50,000 colones. Radio, cinema or television commercial shorts are deemed to be national if they are made in other Central American countries which grant reciprocity in this area. | El Salvador, Guatemala, Honduras and Nicaragua | Indefinite | Cooperation with countries in the region through preferences granted within the framework of Central American integration. |

* The PROFESSIONAL SERVICES sector includes all services whose provision necessitates specialized higher education and for whose exercise official authorization is required in accordance with the relevant legislation.

** Note: In certain cases, professionals from Central American countries are exempt from the residence requirement needed for membership of the corresponding professional college.

| Sector or subsector | Description of measure indicating its inconsistency with Article II | Countries to which the measure applies | Intended duration | Conditions creating the need for the exemption |
|------------------------------|---|--|-------------------|---|
| LAND TRANSPORTATION SERVICES | | | | |
| Passenger transportation | Permission to operate an international passenger transportation service against payment is only granted to Costa Rican enterprises or enterprises whose capital includes a minimum of 60 per cent paid up by Central American nationals | El Salvador, Guatemala, Honduras and Nicaragua | Indefinite | Cooperation with countries in the region through preferences granted within the framework of Central American integration |
| | Granting of permits for international passenger transportation services against payment is based on the principle of reciprocity | All countries | Indefinite | |
| Freight transportation | Foreign vehicles, trailers, containers and chassis from outside the Central American region may only transport goods imported or exported by Costa Rica outside this region | El Salvador, Guatemala, Honduras and Nicaragua | Indefinite | Cooperation with countries in the region through preferences granted within the framework of Central American integration |
| All sectors | Measures under bilateral treaties for the promotion and protection of investment designed to encourage in a preferential manner the investments of certain countries covered by such agreements | All countries | Indefinite | National policies aimed at ensuring that preferential treatment of investments is granted on the basis of reciprocity |