

ORGANIZATION

(04-0077)

Council for Trade in Services
Special Session

Original: English

INDIA

Conditional Initial Offer

The following communication, dated 16 December 2003, from the delegation of India, is being circulated to the Members of the Council for Trade in Services.

1. India hereby submits its Conditional Initial Offer under the ongoing negotiations on Trade in Services under Article XIX of the General Agreement on Trade in Services and pursuant to paragraph 15 of the Doha Ministerial Declaration.

2. This offer is conditional on other WTO Members making substantive and satisfactory offers in sectors and modes of supply where India has indicated its interests. India reserves the right to withdraw, modify or reduce any part of this offer and any subsequent conditional offers that could follow, in whole or in part, at any time on or prior to the conclusion of the current Services Negotiations if offers made by India's negotiating partners are not satisfactory. India further reserves the right to make any technical amendments or corrections to this initial conditional offer and any subsequent conditional offer that could follow.

3. This offer is also conditional on the outcome of the negotiations underway on the development of disciplines on domestic regulations.

4. To the extent possible, the individual sectors and sub-sectors are identified in accordance with the Services Sectoral Classification List (MTN.GNS/W/120).

Specific Commitments

5. India has offered to undertake extensive commitments under Modes 1 and 4.

6. In addition to the above, India has substantially improved access in critical service sectors such as Accounting and Book Keeping services, Engineering services, Computer & related services, Medical and Dental services, Services provided by Midwives, Nurses, Physiotherapists and paramedical personnel, Construction and related Engineering services, Financial services, Health services, Tourism services and Maritime Transport services.

INDIA – SCHEDULE OF SPECIFIC COMMITMENTS

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
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) and 4): Access to Scheduled areas and Tribal areas covered under the V and VI Schedule of the Constitution of India may be denied.	3) In case of collaboration with public sector enterprises or government undertakings as joint venture partners, preference in access will be given to foreign service suppliers/entities which offer the best terms for transfer of technology. 3) Acquisition of shares in Indian companies would be subject to FIPB approval. 3) Repatriation of sale proceeds of immovable property is subject to prior approval of RBI. 3) Taxation laws for domestic and foreign service suppliers, as per the provisions of the Income tax Act, 1961, shall apply. 3) Subsidies, where granted, shall be available only to domestic service suppliers. 3) and 4): Special treatment may be provided to Scheduled Castes, Scheduled Tribes and weaker sections of society, as laid down in the Constitution of India as well as various legislation. 3) and 4): Access to Scheduled areas and Tribal areas covered under the V and VI Schedule of the Constitution of India may be denied.	

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
	4) Unbound except for measures affecting the entry and temporary stay of Natural Persons who fall in any of the following categories: None for the following categories: (a) <u>Business visitors</u> Persons who visit India for the purposes specified in (i) and (ii) below and who will not receive remuneration from within India: (i) for business negotiations, or (ii) for preparatory work for establishing a commercial presence in India. Entry for persons in this category shall be for a period of not more than 90 180 days. (b) <u>Intra-corporate transferees</u> At the level of Managers, Executives and Specialists Specific categories of employees listed below who have been are in the employment of a juridical person of another Member for a period not less than one year prior to the date of application for entry into India and are being transferred to a branch or a representative office or a juridical person owned or controlled by the aforesaid juridical person in the context of provision of a service in India.	4) Unbound except for measures referred to under Market Access. None, except for the requirement for the requisite visa, and the conditions attached to entry and temporary stay under such a visa, namely: (i) possession of requisite educational qualifications or work experience; (ii) fulfilment of specific requirements regarding information in support of the application; (iii) proof of contract.	

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
	(i) Managers are: Persons who direct a branch office or one or more departments as their head, or supervise or control the work of other supervisory, professional or managerial personnel and have the authority to appoint or remove the personnel and powers to exercise discretionary authority over day-to-day operations. (ii) Executives are: Persons who are in senior positions within a juridical person including a branch who primarily direct the management, have wide decision-making powers and are either members of the board of directors or receive directions from the board or the general body of shareholders. (iii) Specialists are: Persons who possess high qualifications and knowledge at an advanced level relevant to the organization's activities or of the organization's research, equipment, techniques or management and may include persons who are members of accredited professional bodies. Entry for persons in the above categories shall be for a maximum period of five years.		

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
	(e) <u>Professionals</u> Natural persons to be engaged by a juridical person in India as part of a services contract for rendering professional services for which he/she possess the necessary academic credentials and professional qualifications with three years experience in the field of physical sciences, engineering or other natural sciences. Entry and stay in this category shall be for a maximum period of one year extendable with permission for a maximum of three months. (c) Employees of a foreign based company or partnership who travel to India for short periods of stay of (1) up to one year in order to perform a service pursuant to a contract between their employer and a client(s) located in India where the employer does not have an affiliate office and where remuneration must be paid solely to the employer and (2) in order to fulfil qualification and licensing requirements where presence in India is an essential condition for the fulfilment of these requirements.		

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
	The service contract has to be obtained in one of the sectors listed below and subject to additional conditions mentioned in the sub-sector : - Engineering Services - Computer and Related Services - Hotel and Restaurant services - Travel agency and tour operator services Access shall be available under this category only in the specific service sector in which contract has been entered into. Access may be denied in the case of juridical persons where the provision of services by foreign service providers is the subject of labour-management dispute.		

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
	(d) Independent professionals : Natural persons who travel to India for short periods of stay, (1) up to twelve months in order to perform a service pursuant to a contract(s) between them and a client(s) located in India for which he or she possesses the necessary academic credentials and qualifications and has obtained, wherever necessary, registration with the professional body and remuneration is to be paid solely to the natural person; and (2) in order to fulfil qualification and licensing requirements, where presence in India is an essential condition for the fulfilment of these requirements. The service contract has to be obtained in one of the sectors listed below and subject to additional conditions mentioned in the sub-sector : - Accounting and Book-keeping services - Engineering Services - Computer and Related Services - Hotel and Restaurant services - Travel agency and tour operator services Access shall be available under this category only in the specific service sector in which contract has been entered into.		

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
II. SECTOR – SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. <u>Professional Services</u>			
(b) Accounting and Book Keeping Services (CPC 862) (excluding Auditing Services)	1) None 2) None 3) Unbound 4) Unbound except as in horizontal commitments and further subject to the following: (a) Access limited to Business Visitors and Independent Professionals only.	1) None 2) None 3) Unbound 4) Unbound except as in horizontal commitments and further subject to the following: (a) Access limited to Business Visitors and Independent Professionals only. (b) Requirement of obtaining professional indemnity insurance from home country of service provider.	
(e) Engineering Services (CPC 8672)	1) Unbound None 2) Unbound None 3) Only through incorporation with a foreign equity ceiling of 51 per cent and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section	1) Unbound None 2) Unbound None 3) None 4) Unbound except as indicated in the horizontal section	

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
(h) Medical and Dental Services (CPC 9312) (j) Services provided by Midwives, Nurses, Physiotherapists and para-medical personnel (CPC 93191)	1) None for provision of services on provider to provider basis such that the transaction is between established medical institutions covering areas of second opinion to help in diagnosis of cases or in the field of research. 2) None 3) Only through incorporation with a foreign equity ceiling of 74 per cent subject to the condition that the latest technology for treatment will be brought in and to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) Publicly funded services may be available only to Indian citizens or may be supplied at differential prices to persons other than Indian citizens. 4) Unbound except as indicated in the horizontal section	
B. <u>Computer and Related Services</u> (a) Consultancy services related to the installation of computer hardware (CPC 841) (b) Software implementation services (CPC 842) (c) Data processing services (CPC 843) (d) Database services (CPC 844) (e) Maintenance and repair services of office machinery and equipment including computers (CPC 845)	1) Unbound None 2) Unbound None 3) Only through incorporation with a foreign equity ceiling of 51% 74 per cent and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section	1) Unbound None 2) Unbound None 3) None 4) Unbound except as indicated in the horizontal section	

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
C. <u>Research and Development Services</u> (a) R&D services on the following natural sciences only: 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)	1) Unbound 2) Unbound* 3) Only through incorporation with a foreign equity ceiling of 51 per cent and further subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section.	1) Unbound 2) Unbound* 3) None 4) Unbound except as indicated in the horizontal section.	
F. <u>Other Business Services</u> (e) Technical testing and analysis services (CPC 8676)	1) Unbound 2) Unbound 3) Only through incorporation with a foreign equity ceiling of 51 per cent and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 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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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES C. <u>Telecommunication Services</u>¹ (a) Voice telephone service (CPC 7521**) Limited to local/long distance, for public use over a public telecommunication transport network Wirebased (i.e., for fixed network of subscribers). (b) Packet Switched Data Transmission Services (CPC 7523**) (i) Radio Paging Service (CPC 7523**)	1) Unbound 2) Unbound 3) The service will be permitted to be provided only after the operator gets a licence from the Designated Authority who shall determine the need, if any, for issuance of new licences. The terms and conditions of the licence will be as laid down by the Designated Authority or Government or the prevailing laws in the country. In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. There will be one operator other than Department of Telecommunications (DOT)/Mahanagar Telephone Nigam Ltd. (MTNL) in each service area for a period of 10 years from the grant of licence after which the position will be reviewed.	1) Unbound 2) Unbound 3) Unbound	The definition and principles on the regulatory framework for the basic telecommunication services subscribed to by India are contained in the annex titled "Explanatory Paper on Additional Commitments by India". The subject of opening up of national long distance service beyond service area to competition will be reviewed in the year 1999. Also the subject of opening up of international service to competition will be reviewed in the year 2004.)

¹ Excluding broadcasting services and measures affecting such services. Broadcasting is defined as a form of the uni-directional telecommunications intended for large number of users having appropriate receiving facilities and carried out by means of radio or cable network. This may include sound transmission, television transmission or other types of transmission.

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
(c) Circuit switched data transmission services (CPC 7523**) (d) Telex Service (CPC 7523**) (e) Telegraph Service (CPC 7522**) (f) Facsimile Service (CPC 7521** + 7529**) (g) Private Leased Circuit Services (CPC 7522** + 7523**) (o) Others (i) Cellular mobile telephone services. (ii) V-SAT service	The private operator should be a company registered in India in which total foreign equity must not exceed 25 per cent. Service operator will be permitted to provide long distance service within the licensed service area only. Resale of voice telephone services is will not be permitted. However, licensees can grant franchises on commission basis for providing public call offices (PCOs) service. The detailed terms and conditions for providing the service will be as per licence conditions. There will be two cellular service operators in each service area, including one Public Sector operator.		
(e) Circuit switched data transmission services (CPC 7523**)	4) Unbound except as indicated in the horizontal commitments. 1) Unbound 2) Unbound 3) Licensed voice telephone service operators will be permitted for transmission of data on the PSTN² network in its licensed service area. 4) Unbound except as indicated in the horizontal commitments	4) Unbound except as indicated in the horizontal commitments. 1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal commitments	

² PSTN refers to Public Switched Voice Telephone Network which is operated by DoT/MTNL or licensed operator.

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
f) Facsimile services (CPC 7521**)	1) Unbound 2) Unbound 3) Licensed voice telephone service operators will be permitted for transmission of facsimile on the PSTN network in its licensed service area. Franchisees of service operators can provide commercial facsimile services 4) Unbound except as indicated in the horizontal commitments	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal commitments	
(g) Private Leased Circuit Services (CPC 7522**)	1) Unbound 2) Unbound 3) Licensed voice telephone service operators will be permitted to provide leased circuits to their customers, for their own use within their licensed service area. Resale of such leased circuits will not be permitted. 4) Unbound except as indicated in the horizontal commitments	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal commitments	
Data and message transmission services, the following:	1) None 2) Unbound 3) Only through incorporation with a foreign equity ceiling of 51 per cent.	1) None 2) Unbound 3) None	
(h) Electronic mail (CPC 7523**)	In the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.		
(i) Voice mail (CPC 7523**)	4) Unbound except as indicated in the horizontal section.	4) Unbound except as indicated as indicated in the horizontal section.	

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Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(j) On-line information and data base retrieval (CPC 7523**) (l) Enhanced / value added facsimile services, including store and forward, store and retrieve (CPC 7523**) (n) On-line information and/or data processing (CPC 843**) (o) Other Cellular mobile telephone services.	1) Unbound 2) Unbound 3) The service will be permitted to be provided only after the operator gets a licence from the Designated Authority who shall determine the need, if any, for issuance of new licences. The terms and conditions of the licence will be as laid down by the Designated Authority or Government or the prevailing laws in the country Only digital (GSM) technology will be permitted and this will only be terrestrial based. There will be two cellular service operators in each service area. The position will be reviewed after 10 years. The right of DoT/MTNL to enter into each service area is reserved. The private operator should be a company registered in India in which total foreign equity must not exceed 25%.	1) Unbound 2) Unbound 3) Unbound	

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
D. <u>Audiovisual Services</u> (a) Motion picture or video tape distribution services (CPC 96113)	The detailed terms and conditions for providing the service will be as per licensee conditions. 4) Unbound except as indicated in the horizontal commitments. 1) Unbound 2) Unbound* 3) (i) Only through representative offices which will be allowed to function as branches of companies incorporated outside India. (ii) Import of titles restricted to 100 per year 4) Unbound except as indicated in the horizontal section.	4) Unbound except as indicated in the horizontal commitments. 1) Unbound 2) Unbound* 3) Subject to the prescribed authority having certified that the motion picture has: (a) won an award in any of the international film festivals notified by the Ministry of Information & Broadcasting, Government of India; or (b) participated in any of the official sections of the notified international film festivals; or (c) received good reviews in prestigious film journals notified by the Ministry of Information & Broadcasting, Government of India 4) Unbound except as indicated in the horizontal section	

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
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES B. <u>Construction work for civil engineering</u> Roads & Bridges only: Construction of highways, streets, railways, runways, bridges, tunnels, subways, waterways, harbours, dams, pipelines, communication lines, power lines and construction work of constructions for mining and manufacturing not elsewhere classified e.g. power plants, iron foundries, blast furnaces and coke ovens. It excludes construction work of warehouses and industrial buildings, residential and non-residential buildings. (CPC Ex. 513)	1) Unbound* None 2) Unbound* None 3) Only through incorporation with a foreign equity ceiling of 51 per cent, and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section.	1) Unbound* None 2) Unbound* None 3) None 4) Unbound except as indicated in the horizontal section.	

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
7. FINANCIAL SERVICES 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 Reserve Bank of India, Securities and Exchange Board of India and any other competent authority in India.			
A. <u>Insurance and Insurance Related Services</u> Non-life, limited to insurance of freight Ex. 5(a)(i)(B) Reinsurance and retrocession 5(a)(ii)	1) Unbound except in the case of insurance of freight, where there is no requirement that goods in transit to and from India should be insured with Indian insurance companies only. Insurance is taken by the buyer or seller in accordance with the terms of the contract. This position will be maintained. Once under a contract the Indian importer or exporter agrees to assume the responsibility for insurance such as in the case of f.o.b. contracts for imports into India or c.i.f. contracts for exports from India, insurance has to be taken only with an Indian insurance company. 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section 1),2) Reinsurance can be taken with foreign reinsurers to the extent of the residual uncovered risk after obligatory or statutory placements domestically with Indian insurance companies. 3) Unbound 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section 1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section	

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
Insurance intermediation, limited to reinsurance Ex. 5(a)(iii)	1),2) Reinsurance of domestic risks can be placed with foreign reinsurers through overseas brokers, to the extent mentioned under reinsurance and retrocession. 3) (i) Overseas brokers are allowed to have resident representatives and representative offices who can procure reinsurance business from Indian insurance companies to the extent mentioned above. They can also place reinsurance business from abroad with Indian insurance companies. (ii) Except for the business indicated above, the resident representatives and representative offices cannot undertake any other activity in India. (iii) All expenses of the resident representatives and representative offices have to be met by remittances from abroad and no income can be received in India from Indian residents. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section	

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
The following section has been re-formulated to bring it in conformity with the Financial Services Sector listed in the Annex on Financial Services.			
B. <u>Banking and other financial services (excluding insurance)</u> 1.(i) Acceptance of deposits and other repayable funds from the public 5(a)(v) (ii) Lending of all types, including consumer credit, mortgage credit, Factoring and financing of commercial transactions but excluding factoring Ex. 5(a)(vi) (iii) All payment and money transmission services including credit, charge and debit cards, travellers cheques and bankers' drafts 5(a)(viii)	1) Unbound 2) Unbound 3) In each of the services given below in which commitments are being undertaken for non-banking financial services companies, access is subject to fulfilment of minimum capitalization norms. <i>For all activities listed in this section of the Schedule excluding factoring and venture capital</i> (i) Only through branch operations of a foreign bank licensed and supervised as a bank in its home country. (ii) Grant of licence as permissible under existing laws.	1) Unbound 2) Unbound 3) <i>For all activities listed in this section of the Schedule excluding factoring and venture capital</i> (i) Foreign banks are required to constitute Local Advisory Boards consisting inter alia of professionals and persons having expertise in areas such as small scale industry and exports. The Chairman and members of the Local Advisory Board must be resident Indian nationals except for the Chief Executive Officer who may be a foreign national. The appointment of Chairman and members of the Board requires Reserve Bank of India approval. (ii) Public sector enterprises can invest surplus funds in term deposits only with scheduled commercial banks incorporated in India.	

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
(iv) Guarantees and commitments 5(a)(ix) (v) Trading for own account of <i>the following</i>: (a) money market instruments (including cheques, bills, certificates of deposits) (b) foreign exchange (c) transferable securities Ex. 5(a)(x)(A)(B)(E) (vi) Asset Management, confined to Portfolio management, custodial and trust services Ex. 5(a)(xiii) (vii) Clearing services for other banks for cheques, drafts and other instruments Ex. 5(a)(xiv)	(iii) A limit of twelve fifteen licences per year both for new entrants and existing banks. (iv) Banks are allowed to install ATMs at branches and at other places identified by them. Installation of ATM at a place other than in licensed branches is treated as a new place of business and requires a licence. Licences issued for ATMs installed by foreign banks will not be included in the ceiling of twelve fifteen licences referred to in item (iii) above. (v) Investments in other financial services companies by branches of foreign banks licensed to do banking business in India individually not to exceed 10 per cent of owned funds or 30 per cent of the invested company's capital whichever is lower. (vi) Licences for new foreign banks may be denied when the maximum share of assets in India both on and off balance sheet of foreign banks to total assets both on and off balance sheet of the banking system exceeds 15 per cent.		

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
3. — Stock broking	(vii) Foreign banks are subject to non-discriminatory resource allocation requirements. (viii) In addition, foreign banks are permitted to invest in private sector banks through the FDI route subject to foreign equity ceiling of 49 per cent. <u>For transferable securities [5 (a) (x) (E)]</u> (ix) In addition to the above, through establishment of locally incorporated joint venture company with foreign equity not exceeding 49 74 per cent. The foreign equity participation will be limited to recognized foreign stock broking companies. 4) Unbound except as indicated in the horizontal section <u>For Factoring</u> 1) Unbound 2) Unbound 3) Allowed for foreign financial services companies (including excluding banks) through incorporation with foreign equity not exceeding 51 74 per cent.	<u>For transferable securities [5 (a) (x) (E)]</u> (iii) Unbound except for entities established in accordance with the limitations specified in the market access column 4) Unbound except as indicated in the horizontal section <u>For Factoring</u> 1) Unbound 2) Unbound 3) Unbound except for entities established in accordance with the limitations specified in the market access column.	

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. Financial leasing 5(a)(vii)	Allowed for banks through incorporation with foreign equity not exceeding 51 per cent 4) Unbound except as indicated in the horizontal section <u>Venture Capital</u> 1) Unbound 2) Unbound 3)(i) Allowed for foreign financial services companies (including excluding banks) through incorporation with foreign equity not exceeding 51 74 per cent. Allowed for banks through incorporation with foreign equity not exceeding 51 per cent (ii) Funding has to be entirely out of equity. 4) Unbound except as indicated in the horizontal section 1) Unbound 2) Unbound 3) Allowed for foreign financial services companies (including excluding banks) through incorporation with foreign equity not exceeding 51 74 per cent. Allowed for banks through incorporation with foreign equity not exceeding 51 per cent 4) Unbound except as indicated in the horizontal section	4) Unbound except as indicated in the horizontal section <u>Venture Capital</u> 1) Unbound 2) Unbound 3) Unbound except for entities established in accordance with the limitations specified in the market access column 4) Unbound except as indicated in the horizontal section 1) Unbound 2) Unbound 3) Unbound except for entities established in accordance with the limitations specified in the market access column. 4) Unbound except as indicated in the horizontal section	

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
2.3. Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues 5(a)(xi)	1) Unbound 2) Unbound 3)(i) Allowed for foreign bank branches licensed to do banking business in India. (ii) Allowed for foreign financial services companies (including excluding banks) through incorporation with foreign equity not exceeding 51 74 per cent. Allowed for banks through incorporation with foreign equity not exceeding 51 per cent	1) Unbound 2) Unbound 3) Unbound except for entities established in accordance with the limitations specified in the market access column.	
4. Money broking 5(a)(xii)	1) 2) and 3) Unbound 4) Unbound except as indicated in the horizontal section	1) 2) and 3) Unbound 4) Unbound except as indicated in the horizontal section	
5. Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services 5 (a) (xv)	1) and 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section	1) and 2) None 3) Unbound 4) Unbound except as indicated in the horizontal section	

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
4.6. Financial consultancy services, i.e. financial advisory services provided by financial advisers, etc. to customers on financial matters, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy Ex. 5(a)(xvi)	1) Unbound 2) Unbound 3)(i) Allowed for Foreign bank branches licensed to do banking business in India. (ii) Allowed for foreign financial services companies (including banks) through incorporation with foreign equity not exceeding 51 per cent. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) Unbound except for entities established in accordance with the limitations specified in the market access column. 4) Unbound except as indicated in the horizontal section	
8. HEALTH RELATED AND SOCIAL SERVICES A. <u>Hospital Services</u> (CPC 9311)	1) Unbound * None for provision of services on provider to provider basis such that the transaction is between two established medical institutions, covering the areas of second opinion to help in diagnosis of cases or in the field of research. 2) Unbound None. 3) Only through incorporation with a foreign equity ceiling of 51 74 per cent and subject to the condition that the latest technology for treatment will be brought in and further subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. Publicly funded services may be available only to Indian citizens or may be supplied at differential prices to persons other than Indian citizens. 4) Unbound except as indicated in the horizontal section	1) Unbound * None. 2) Unbound None. 3) None 4) Unbound except as indicated in the horizontal section	

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
9. TOURISM AND TRAVEL RELATED SERVICES			
A. <u>Hotels and other lodging services</u> (CPC Ex. 641)	1) Unbound* 2) Unbound None 3) Only through incorporation with a foreign equity ceiling of 51 per cent and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section	1) Unbound* 2) Unbound None 3) None 4) Unbound except as indicated in the horizontal section	
B. <u>Travel Agency and Tour Operator Services</u> (CPC747) (CPC747I)	1) Unbound 2) Unbound None 3) Only through incorporation in with a foreign equity ceiling of 51 per cent and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required. 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound None 3) None 4) Unbound except as indicated in the horizontal section	

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
11.A. MARITIME TRANSPORT SERVICES			
The commitments in Maritime Transport are made in accordance with the General Agreement on Trade in Services. All commitments are subject to domestic laws, entry requirements, rules and regulations and the terms and conditions of the Directorate General of Shipping, Reserve Bank of India and any other competent authority in India. For supply of Maritime Auxiliary Services through commercial presence under Mode 3, it will be only through Indian registered company			
<u>International Transport</u> (Freight and Passengers excluding cabotage and offshore transport as defined in Annex 'A')	1)(a) Liner Shipping: None, except - At least 40 per cent of cargo carried by liner shipping companies must be reserved for Indian Flag ships. - Preference will be given to Indian Flag vessels for government cargoes; and Government owned/ controlled cargo - Government policy on FOB/ FAS imports and export on CIF/ C&F basis will hold good. - Indian flag vessels will have the first right of refusal for carrying such cargo and only thereafter can foreign flag ships be allowed to be in-chartered/ taken on international rental basis.	1)(a) Liner Shipping: None, except that in liner trade (Not restricted to liner conference trade) between India and such countries which are contracting parties to the UN Convention on code of conduct for liner conferences, the provisions of the said convention will apply.	<u>Access to and use of Port Facilities</u> No measures shall be applied to the following services which deny reasonable and non-discriminatory access to international maritime suppliers: 1. Pilotage 2. Towing, Tug assistance & pushing, 3. Provisioning, fuelling & watering, 4. Garbage collecting & ballast waste disposal 5. Port Captain services, 6. Navigation aids, 7. Shore based operational services essential to ship operations, including communications, water and electrical supplies, 8. Emergency repair facilities, 9. Anchorage, berth and berthing 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
	1) (b) Bulk Shipping: None, Except (i) Dry, Liquid and Gas other than LNG: - Preference will be given to Indian Flag vessels for government cargoes; and Government. Owned/ controlled cargo. - Government policy on FOB/ FAS imports and export on CIF/ C&F basis will hold good. - Indian flag vessels will have the first right of refusal for carrying such cargo and only thereafter can foreign flag ships be allowed to be in-chartered/ taken on international rental basis. (ii) LNG: Unbound 1)(c) Passenger: None 2) None 3)(a) None, but condition that for operating a ship under the Indian flag, a registered company, or a cooperative society under any Central Act or State Act having its principal place of business in India, must be established. 3)(b) Other forms of commercial presence for the supply of International Maritime Transport Services (as per definitions): Unbound 4)(a) Ships crews: Unbound 4)(b) Key shore personnel: Unbound	1)(b) Bulk Shipping: None, Except (i) Preference will be given to Indian Flag Vessels. - Preference will be given to Indian Flag vessels for government cargoes; and Government owned/ controlled cargo. - Government policy on FOB/ FAS imports and export on CIF/ C&F basis will hold good. - Indian flag vessels will have the first right of refusal for carrying such cargo and only thereafter can foreign flag ships be allowed to be in-chartered/ taken on international rental basis. (ii) LNG: Unbound 1)(c) Passenger: None 2) None 3)(a) None 3)(b) Unbound 4)(a) Ships crews: Unbound 4)(b) Key shore personnel: Unbound	

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
<u>MARITIME AUXILIARY SERVICES</u>			
Maritime Cargo Handling services	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ Head Note to this Schedule 4) None	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ Head Note to this Schedule 4) None	
Storage and Warehousing services in Ports	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ Head Note to this Schedule 4) None	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ Head Note to this Schedule 4) None	
Customs Clearance Services	1) Unbound* 2) None 3) Unbound 4) Unbound	1) Unbound* 2) None 3) Unbound 4) Unbound	
Container Station and Depot Services	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ Head Note to this Schedule 4) None	1) Unbound* 2) None 3) None, except as indicated in Horizontal commitment/ Head Note to this Schedule 4) None	
Maritime Agency Services	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	
Maritime Freight Forwarding Services	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	

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
International rental/ charter of vessels with crew or on bareboat basis (excluding cabotage and offshore transport)	1) Unbound 2) None except obtaining permission from Director General (Shipping) for chartering a foreign flag vessel in the absence of availability of a suitable Indian vessel. 3) Unbound 4) Unbound	1) Unbound 2) None, except vessels rented by Indian nationals are considered as foreign vessels. 3) Unbound 4) Unbound	
Maintenance and repairs of sea going vessels	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	1) None 2) None 3) None, except as indicated in Horizontal commitment/ head Note to this Schedule 4) None	

(*) Unbound due to lack of technical feasibility

**Explanatory Paper on
Additional Commitments by India**

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

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly 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

Appropriate measures shall be maintained for the purpose of preventing service suppliers from engaging in or continuing in anti-competitive practices of the following type:

- (a) using information obtained from competitors with anti-competitive results; and
- (b) 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 network 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 specified feasible point in the network as indicated in the licence. Such interconnection is provided:

- (a) 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;

- (b) upon request, at points in addition to the network termination points offered to the majority of users as per licence conditions, subject to mutually agreed charges.

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 will be 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:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to a domestic-authority to resolve disputes regarding appropriate terms, conditions and rates for interconnection within reasonable period of time, to the extent that these have not been established previously.

3. Universal service

India retains the right to define the kind of universal service obligation it wishes to maintain. Such obligations are not regarded as anti-competitive per se, since they would be-administered in a transparent and non-discriminatory manner.

4. Public availability of licensing criteria

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

- (a) All the licensing criteria, and
- (b) The terms and conditions of individual licences.

5. Regulatory Authority

~~The decisions of and the procedures used by the regulatory authority shall be impartial with respect to all market participants.~~

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, numbers and rights of way, will be carried out in an objective and timely 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.**

Definitions Related to Section 11.A. – Maritime Transport Services

1. “International Transport (Freight and Passenger)”, for the purpose of this schedule, is to mean transportation of international Maritime Freight and Passengers by sea going vessels from the port of loading in one country to the port of discharge in another country.
2. Cabotage: This Schedule does not include any commitments on “Cabotage” or “Maritime Transport Services” which are described as transportation of passengers or goods between any port located in India and any other port also located in India and traffic originating and terminating in the same port located in the country and further includes transportation of passengers or goods between a port located in India and installation and structures situated on the continental shelf of India.
3. Offshore Transport: for the purposes of the schedule only, “Offshore Transport” refers to shipping services involving the transportation of passengers or goods between a port located in India and any location installation or structure associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of India, the seabed of the Indian coastal seas and the subsoil of the seabed, or situated on the continental shelf of India.
4. “Other forms of Commercial Presence for the supply of International Transport Services” means ability for International Maritime Transport Service suppliers to undertake local activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which maritime transport constitutes a substantial element.

These activities include, but are not limited to:

- a. marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- b. acquisition on their own about or on behalf of their customers (and the resale to their customers) for any transport and related services, including anchorage, berth and berth services, and onward transport services by any mode, particularly road and rail, inland waterways, necessary for the supply of the integrated services;
- c. the preparation of transport documents, customs documents, or other documents related to the origin and character of goods transported;
- d. the provision of business information, including computerized information systems and electronic data interchange;
- e. setting up of business arrangements with any locally established shipping agency and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to horizontal commitments on movement of personnel);
- f. organizing any aspect of the call of the vessel or taking control over cargoes;
- g. the provision of Ships Managers’ Services.

NOTE: {In order to enforce certain standards and conditions which need to be fulfilled by shipping service suppliers, particularly those providing ship personnel and crew and also those engaged in providing ships management services, and to ensure that the owner, operator, agent or manager has:

- the capability of implementing international standards as well as IMO stipulations and recommendations;
- the necessary financial structure so that he is responsible and accountable;
- the capability of implementing, the safety; and marine pollution controls;
- fulfilled requirements of quality management and his operations are transparent;

a system of registration/ licensing of shipping service supplier is under consideration in India}

5. “Ship Managers” means persons entering India as the agents or representatives of a ship’s owner or operator for the purposes of assessing requirements, negotiating and authorizing expenditures necessary to the maintenance and operations of a vessel as well as the Handling of Cargo.

6. “Maritime Cargo Handling Services” means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dock workers, when this workforce is organized independently of the stevedoring or terminal operator companies. The activities covered, include the organization and supervision of:

- the loading/ discharging of cargo to/ from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

The organization and supervision includes the arrangements for (1) engaging skilled workers (dockworkers), (2) using all necessary equipment for on board or shore use and appropriate storage space, whether by ownership, rental or otherwise, (3) the checking of parcels and markings, the weighing and measuring of cargo, and (4) the administrative duties and responsibilities related to the services.

7. “Maritime Freight Forwarding Services” means the activity of organizing and monitoring shipments on behalf of shippers through providing such services as the arrangement of actual transport and related services, consolidation, aggregation, packing of cargo, preparation of documentation and provision of business information.

8. “Maritime Agency Services” means activities in representing, within a given geographic area, the business interests of one or more shipping lines or shipping companies for the following purposes:

- marketing and sales of maritime transport and related activities from quotation to invoicing (cargo booking and canvassing)
- issuance of bills of lading on behalf of the companies;
- acquisition and resale of other necessary related services (settlement of disbursements and claims) preparation of documentation, and provision of business information;
- acting on behalf of the companies in organizing the call of the ship or taking control of cargoes;
- to make arrangement in order to get all necessary port services required by the foreign vessel during its stay in Indian Ports;
- to appoint a stevedoring company for cargo loading and unloading on behalf of its principal;
- to collect freight on behalf of the principal.

9. “Custom Clearance Services” (alternatively Customs House Agents/Brokers) means activities consisting of carrying out on behalf of another party customs formalities concerning import export or through transport for cargoes irrespective of whether this is the main or secondary activity of the services provider.
10. “Government Cargo” means cargo originating from other countries (import cargoes including crude oil), petroleum by products, coal, natural gas, raw materials for fertilizers, food-grains etc.) purchased by Indian Government Agencies/ Departments or based on loan/ credit agreements with other countries, as well as exports by Indian Government Agencies/ Departments including Government aid.
11. “Container Station and Depot Services” means activities consisting of storing containers, whether in port areas or inland, with a view to their stuffing/ stripping, repairs and making them available for shipments.
12. “Maintenance and Repairs of Vessels” means services such as repairs and management of vessels, mending, fixing or overhauling of a vessel, management of crew and marine insurance, provided on behalf of a maritime passenger or cargo transport business, or vessel leasing business.
13. “International rental of vessels with crew or on bare-boat charter basis” means rental and/ or leasing services of all types of sea-going vessels with crew or on bare-boat basis (whereafter the ship will be manned by Indian nationals only during the period of rental/ lease) for the purposes of international trade (like tankers, dry bulk cargo vessels, cargo and freight vessels etc).

INDIA – FINAL LIST 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
2.C Telecommunication services – International Service	Measure including the application of different accounting rates for different operators/countries covered by International Telecommunication Services Agreements between Videsh Sanchar Nigam Limited and various foreign operators.	Countries covered by International Telecommunication Services Agreements between Videsh Sanchar Nigam Limited and foreign operators.	Indefinite	On account of bilateral agreements between Videsh Sanchar Nigam Limited and various foreign operators dealing with various aspects of cooperation.
2.C Telecommunication services – International Service	Measures including the application of different accounting rates for different neighbouring countries covered by Telecommunication Agreements entered into by the Government of India with governments of neighbouring countries.	Neighbouring countries (Pakistan, Bangladesh, Nepal and Bhutan)	Indefinite	On account of bilateral agreements with governments of neighbouring countries.

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
AUDIOVISUAL SERVICES	Measures which define norms for co-production of motion pictures and television programmes with foreign countries and grant national treatment to motion pictures and television programmes co-produced with foreign countries which maintain a co-production agreement with India.	All countries	Indefinite	The agreements aim at the promotion of cultural exchange.
SHIPPING (a) Cargo sharing between bilateral partners	Equality in freight liftings originating in the ports of partners to the agreement and equality in freight earnings	Bulgaria, Pakistan and the United Arab Republic	Indefinite	In the context of overall trade relations.
(b) Cargo Reservations	Cargo reservation under the UN Code of Conduct for Liner Conferences, Sharing of cargo between the national lines of contracting states and third country lines in the ratio of 40:40:20 as provided in the Liner Code.	All countries	Indefinite	To fulfil obligations under the convention.
RECREATIONAL SERVICES	Waiver on the prohibition of sale of lottery tickets in India.	Bhutan	Indefinite	It is part of a comprehensive bilateral agreement between India and Bhutan.