

WORLD TRADE ORGANIZATION

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**Council for Trade in Services
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MEXICO

Conditional Initial Offer

The following initial offer was received from the Delegation of Mexico on 16 May 2003 with the request that it be circulated to Members of the Council for Trade in Services.

I. INTRODUCTION

1. Pursuant to paragraph 6 of the Doha Ministerial Declaration concerning Members' commitment to submit a conditional initial offer for the negotiations provided for in Article XIX of the GATS, Mexico hereby submits its conditional initial offer of specific commitments in services.
2. By means of this offer, Mexico reiterates its WTO commitment to achieving a progressively higher level of liberalization and delivering effective access to its services markets.
3. Given that Mexico's offer takes the concepts set forth in Article I.3 of the GATS into account, the attached offer does not include services supplied in the exercise of governmental authority.
4. Furthermore, pursuant to Article VI of the GATS, Mexico reserves the right to establish, maintain and fully exercise its national legislation in order to achieve legitimate policy objectives in areas such as consumer protection, health and the environment, *inter alia*. Likewise, Mexico reserves the right to revise or amend this offer in the light of the outcome of the work of the Working Party on GATS Rules and the Working Party on Domestic Regulation.
5. Mexico reiterates that this offer is conditional and that it therefore reserves the right to withdraw, amend or supplement all or part of it at any time prior to the conclusion of the negotiations. It also reserves the right to submit technical amendments or corrections.

II. SPECIFIC COMMITMENTS

6. In the light of Mexico's desire to promote the progressive liberalization of trade in services, this contribution includes, *inter alia*, offers in the following sectors: professional services, computer and related services, research and development services, real-estate services, distribution services, environmental services, financial services, health and social services, tourism and travel-related services, recreational, cultural and sporting services, maritime transport services and rail transport services.
7. Insofar as was possible, Mexico drew up its Schedule of Commitments on the basis of the Services Sectoral Classification List (MTN.GNS/W/120) and in accordance with the definitions in the

United Nations' Provisional Central Product Classification. Attention should be drawn to the fact that several services sectors might be added once the review of consistency between the above classifications and the Mexican Classification of Activities and Products (CMAP) has been completed.

8. In the review of its specific commitments and submission of new commitments in this conditional initial offer, Mexico took into consideration the Guidelines for the Scheduling of Specific Commitments Under the General Agreement on Trade in Services (GATS), circulated in document S/L/92.

9. Mexico hereby expresses its willingness to comment on or clarify any doubts concerning this conditional initial offer. Questions should be addressed to the Permanent Mission of Mexico to the WTO at Geneva or the Ministry of the Economy (Directorate General of Negotiations in Services) in Mexico City.

MEXICO - 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	1) None 2) None 3) Foreign investment in activities reserved for Mexican nationals must be through neutral shares, the purchase of which must be quoted on the Mexican Stock Exchange.	1) None 2) None 3) Foreigners may not acquire direct ownership of land and water in a 50 km. strip on the coastline and a 100 km. strip along the frontiers. Unbound for research and development subsidies and incentives to small service enterprises owned by Mexican nationals. Mexican companies without a foreigner exclusion clause and which have signed the agreement referred to in Article 27.I of the Constitution may acquire immovable property in the restricted area for non-residential activities and must register the purchase with the Ministry of Foreign Affairs (SRE). Authorization from the SRE is required for credit institutions to acquire as a fideicommissum immovable property in the restricted area when the beneficiaries are Mexican companies without a foreigner exclusion clause or foreign natural or legal persons.	

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>The Foreign Investment Commission (CNIE) is the body responsible for establishing foreign investment policy guidelines and designing mechanisms to promote investment in Mexico, as well as a mandatory advisory body on foreign investment for federal public administration departments and agencies.</p> <p>In fulfilment of its terms of reference, the CNIE establishes the criteria for implementing legal and regulatory foreign investment provisions by issuing general resolutions. It also decides whether to authorize and, where appropriate, dictates the terms and conditions of foreign equity participation in economic activities and acquisitions subject to specific regulations under the Foreign Investment Law.</p> <p>The CNIE applies the following criteria when examining authorization requests:</p> <ul style="list-style-type: none"> - The impact on employment and worker training; - the technological contribution; - compliance with the environmental provisions in the relevant environmental legislation; and - in general, the contribution to enhancing the competitiveness of the country's productive system. 	<p>The Foreign Investment Commission (CNIE) is the body responsible for establishing foreign investment policy guidelines and designing mechanisms to promote investment in Mexico, as well as a mandatory advisory body on foreign investment for federal public administration departments and agencies.</p> <p>In fulfilment of its terms of reference, the CNIE establishes the criteria for implementing legal and regulatory foreign investment provisions by issuing general resolutions. It also decides whether to authorize and, where appropriate, dictates the terms and conditions of foreign equity participation in economic activities and acquisitions subject to specific regulations under the Foreign Investment Law.</p> <p>The CNIE applies the following criteria when examining authorization requests:</p> <ul style="list-style-type: none"> - The impact on employment and worker training; - the technological contribution; - compliance with the environmental provisions in the relevant environmental legislation; and - in general, the contribution to enhancing the competitiveness of the country's productive system. 	

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>The CNIE, when examining the propriety of an application, may only impose requirements which do not distort international trade. It may also prevent foreign investment holdings for reasons of national security.</p> <p>Finally, the CNIE shall decide on a case-by-case basis whether or not to permit an acquisition or majority foreign equity ownership that is subject to its review under the Foreign Investment Law.</p> <p>Persons required to register shall renew their registration record annually, for which they must complete an economic-financial questionnaire in accordance with the respective regulations.</p>	<p>The CNIE, when examining the propriety of an application, may only impose requirements which do not distort international trade. It may also prevent foreign investment holdings for reasons of national security.</p> <p>Finally, the CNIE shall decide on a case-by-case basis whether or not to permit an acquisition or majority foreign equity ownership that is subject to its review under the Foreign Investment Law.</p> <p>Persons required to register shall renew their registration record annually, for which they must complete an economic-financial questionnaire in accordance with the respective regulations.</p>	

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	<p>4) Unbound, except for measures affecting the entry and temporary stay of natural persons in the following categories: a) persons directly responsible for the sale of a service, and b) persons transferred within the same enterprise, provided that they are executives, managers or specialists.</p> <p>For the purposes of this offer:</p> <p>a) <u>persons directly responsible for the sale of a service</u> means persons representing an enterprise that carries out an activity in a country party to the Agreement who are to enter Mexican territory temporarily (for up to 90 days) in order to sell or negotiate the sale of a service or conclude agreements for the sale of the said service on behalf of the enterprise that they represent, provided that this does not, under any circumstances, constitute a direct sale to the general public.</p> <p>b) <u>persons transferred within the same enterprise</u> means the employees of an enterprise who have been employed by that enterprise for at least a year proceeding their temporary entry into Mexican territory (one year with option of renewal) in order to continue providing their services in that enterprise or a subsidiary thereof in accordance with the relevant national laws. This offer is restricted to executives, managers and specialists.</p>	<p>4) Unbound, except for measures affecting the categories of natural persons indicated in the market access column. The following activities are reserved for Mexican nationals: ship captains, aircraft pilots, ship masters, ship engineers, ship mechanics, crews of ships and aircraft under the Mexican flag, airport managers, harbour pilots, Customs brokers and train crews. Subsidies granted to natural persons may be limited to Mexican citizens.</p>	

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	<ul style="list-style-type: none"> - <u>executives</u> are persons in an enterprise who primarily direct its management or establish its goals and policies or those of any of its main components or activities, exercise wide latitude in decision-making and receive only general supervision and instructions from higher-level executives, the Board of Directors or shareholders of the enterprise. - <u>managers</u> are persons in an enterprise who direct the enterprise or its departments or divisions, supervise and control the work of other supervisory, professional or managerial staff, have the authority to hire, dismiss and take other personnel actions and exercise discretionary authority over higher-level day-to-day operations. - <u>specialists</u> are persons within an enterprise who possess advanced and proprietary knowledge of the enterprise's production, services, research equipment, techniques or management. 		

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II. SECTOR-SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. <u>Professional Services</u> ¹			
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) Foreign investment of up to 49 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) Foreign accounting and auditing enterprises must use the name of their Mexican partners. 4) Unbound, except as indicated in the horizontal section.	
d) Consultancy and technical studies for architecture (CPC 8671)	1) None 2) None 3) None Foreign investment of up to 100 per cent of the registered capital of enterprises. 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) Consultancy and technical studies for engineering (CPC 8672)	1) None 2) None 3) None Foreign investment of up to 100 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
f. Integrated engineering services (CPC 8673)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	

¹ A degree that has been recognized or confirmed by the Ministry of Public Education (SEP) and a professional licence are required to exercise a profession in Mexico. Special requirements must be met by engineers, architects and doctors.

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g. Urban planning and landscape architectural services (CPC 8674)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
h) Medical and dental services (CPC 9312)	1) None 2) None 3) None Foreign investment of up to 100 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 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)	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.	
b. Software implementation services (CPC 842)	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.	

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c) Systems analysis and data processing services (CPC 843)	1) None 2) None 3) None Foreign investment of up to 100 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None The duty-free system with exemption from import duties applicable to the production of goods in this activity is intended solely for domestic producers (Computer Industry Modernization Programme, 1990). 4) Unbound, except as indicated in the horizontal section.	
d. Database services (CPC 844)	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. Other (CPC 845 and 849)	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.	
C. <u>Research and development services</u> (CPC 85)	1) None 2) None 3) Foreign investment of up to 49 per cent of the registered capital of enterprises and up to 100 per cent for research and technological development centres. 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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D. <u>Real estate services</u>			
a. Real estate services involving own or leased property (CPC 821) Other than: Real estate services involving own property	1) Unbound 2) None 3) None. 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None. 4) Unbound, except as indicated in the horizontal section.	
b. Real estate services on a fee or contract basis (CPC 822)	1) Unbound 2) None 3) None. 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None. 4) Unbound, except as indicated in the horizontal section.	
E. <u>Rental/leasing services without operators</u>			
a) Leasing or rental services concerning vessels without operator (CPC 83103)	1) Unbound 2) None 3) Foreign investment only up to 49 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
b. Leasing or rental services concerning aircraft without operator (CPC 83104)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	

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c) Leasing or rental services concerning other means of transport without operator:	1) Unbound 2) None 3) Foreign investment of up to 51 49 per cent of the registered capital of enterprises. Enterprises incorporated as trading companies under Mexican law and the corporate purpose of which explicitly provides for leasing are required to register with the Ministry of Communications and Transport. Foreign investment may not exceed 49 per cent of the registered capital of enterprises engaged in leasing or rental services concerning means of maritime transport. 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Rental of cars without driver (CPC 83101)	1) Unbound 2) None 3) Foreign investment of up to 51 49 per cent of the registered capital of enterprises. Enterprises incorporated as trading companies under Mexican law and the corporate purpose of which explicitly provides for leasing are required to register with the Ministry of Communications and Transport. Car rental companies must have a tourist licence issued by the Ministry of Tourism (SECTUR). 4) Unbound, except as indicated in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
d) Leasing or rental services concerning other machinery and equipment without operator			

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- Rental services concerning agricultural and fishery machinery and equipment (CPC 83106)	1) None 2) None 3) None Foreign investment of up to 49 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Rental services concerning industrial machinery and equipment (CPC 83109)	1) None 2) None 3) None Foreign investment of up to 49 per cent of the registered capital of enterprises. 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) Other			
- Rental services concerning electronic equipment for data processing (CPC 83108)	1) None 2) None 3) Foreign investment of up to 49 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Rental services concerning office equipment and furniture (CPC 83108)	1) None 2) None 3) None Foreign investment of up to 49 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Rental services concerning televisions, sound equipment, video-cassette recorders and musical instruments (CPC 83201)	1) None 2) None 3) None Foreign investment of up to 49 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	