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GATS 2000

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

TO

BOLIVIA

GENERAL REMARKS

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

In line with this decision, and committed to the objectives and principles stated in the GATS, in particular Article IV and XIX GATS, as well as the negotiating guidelines agreed by the Council for Trade in Services on 29 March 2001, the EC encourages Bolivia to participate actively in the negotiations.

The EC considers that the progressive liberalisation of services is of benefit for all members, including developing and least developed countries. In this context, the EC recognises the importance of liberalisation being underpinned by domestic regulatory frameworks designed to ensure the achievement of public policy objectives.

This request covers horizontal commitments, MFN exemptions and the following service sectors:

- Professional services
- Business services (other than professional services)
- Telecommunications services
- Construction and related engineering services
- Distribution services
- Environmental services
- Financial services
- News agency services
- Transport services

The EC proposes that Bolivia's current GATS commitments are revised in accordance with this request. The EC is both seeking improved commitments and clarification of existing commitments as set out in this Request. The EC is furthermore looking for a reduction in scheduled limitations whether these are horizontal or sector specific in nature. In so doing, the EC is not seeking the dismantling of public services nor the

privatisation of state owned companies.

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

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

- that the sector and sub-sector are clearly identified in accordance with the classification list in Document MTN.GNS/W/120 or other internationally recognised classification (e.g. Financial Services Annex) and/or corresponding CPC number. If there is no appropriate classification, the schedule should contain a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment. In that respect, the EC would like to recall the classification or list of activities proposed in its negotiating proposals with regard to environmental services. While discussions on classification in these sectors are still ongoing, the EC would like to invite Bolivia to present its offer in accordance with this approach.
- that any remaining limitation on market access (hereafter "MA") or on national treatment (hereafter "NT") are clearly described and only be inscribed in the market access or national treatment columns if the measures of a nature foreseen by Articles XVI-XVII GATS.

The EC remains available to provide any clarification and answer any question on this request. Questions can be addressed to the European Commission via the EC GATS contact point (mailbox address: TRADE-GATS-CONTACT-POINTS@cec.eu.int), via the Delegation of the European Commission in Geneva, or directly to the European Commission (Directorate- General Trade, Unit D2 (Trade in services, including e-commerce), Brussels, B-1049, Belgium, fax 32-2-299 24 35) .

Note: The EC reserves the right to revise and/or supplement this request. For each service sector, M20 classification has been followed unless expressly indicated and CPCs refer to the Provisional CPC classification. The precise scope for each sector is without prejudice to the EC's final positions on classification issues and to the EC's classification of their existing commitments.

HORIZONTAL COMMITMENTS

EC REQUEST TO BOLIVIA

MODE 3

- MA – Specific conditions for concessions to individuals relating to the soil and the subsoil of the Bolivian territory. **EC Request:** Precise the exact scope of this limitation
- MA – Obligation for foreign enterprise to establish subsidiaries in order to engage in trade on a regular basis. **EC Request:** Remove.

MODE 4

Definitions

- It is not clear what is covered by the terms «managers», «executives» and «specialists». **EC Request:** Define in schedule.

Quantitative Restrictions

- There is a 15% limit on the total number of foreign employees in an organisation. **EC request:** Eliminate this requirement for intra-corporate transfers and where a juridical person has no commercial presence in Bolivia.

Intra-corporate transferees

An intra-corporate transferee (ICT) is an employee of a foreign firm, who is temporarily transferred to an affiliate of that firm (branch, subsidiary, office, joint venture etc.) in your country.

The EC considers that Bolivia's horizontal Mode 4 commitments cover intra-corporate transfers of «managers», «executives» or «specialists» without application of an economic needs test. **EC Request:**

- Please confirm this understanding and clarify whether there are any limitations in relation to the degree of affiliation which must exist between companies, the length of stay or minimum prior employment requirements.
- The EC also requests that a commitment be made to allow as intra-corporate transferees without requiring an economic needs test « persons with a university degree or equivalent technical qualification who are transferring for career development purposes or to obtain training in business techniques or methods ». The maximum prior employment requirement should be one year.

Business Visitors

A Business Visitor is a representative of a foreign services supplier who is seeking temporary entry into your country for one of the following purposes:

(a) to hold meetings and/ or to negotiate the sale of services; (b) to conclude contracts to sell services; or (c) to set up a Mode 3 presence. A Business Visitor does not himself directly provide services or sell to the public. Business Visitors are usually granted entry for 90 days periods at a time.

The EC considers that Bolivia's horizontal Mode 4 commitments cover Business Visitors who are "managers", "executives" or "specialists" without application of either quantitative restrictions or economic needs tests. **EC Request:**

- Please confirm this understanding
- For Type (a) and (b) Business Visitors extend the commitment to all such Business Visitors. The maximum length of stay should be at least 90 days in a 12 month period.
- For other Business Visitors, clarify whether there are any limitations on the length of stay.

Other

The EC considers that Bolivia's horizontal Mode 4 commitments cover the provision of services under contract where the service supplier has no commercial presence in Bolivia and where that service is provided by "managers, "specialists" and/or "skilled technicians". **EC Request:**

- Please confirm this understanding and clarify whether there are any limitations on the length of stay.

National Treatment

- «One or two year residence permits are granted, subject to the requirement of an employment contract, associated with commercial presence». **EC Request:** Clarify meaning and effect of this entry.

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

PROFESSIONAL SERVICES

EC REQUEST TO BOLIVIA

Bolivia has not committed this sector. The EC requests that it be committed as follows:

A. LEGAL SERVICES (CPC 861)

EC Request:

- Commit covering at least consultancy on public international law and on law of jurisdiction where the service supplier or its personnel are qualified, lawyers
- Modes 1, 2, 3: Take full commitments, i.e. schedule "none" under MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

B. ACCOUNTING, AUDITING AND BOOKKEEPING SERVICES (CPC 862)

EC Request:

For accounting and bookkeeping services:

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

For auditing services:

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

E. ENGINEERING SERVICES CPC 8672

F. INTEGRATED ENGINEERING SERVICES (CPC 8673)

EC Request for each of these sub-sectors [E and F]

- Modes 1,2 and 3: Take commitments under MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

The EC also invites Bolivia to consider taking commitments in the sub-sectors of taxation services and architectural services.

BUSINESS SERVICES (OTHER THAN PROFESSIONAL)

EC REQUEST TO BOLIVIA

B. COMPUTER AND RELATED SERVICES

Bolivia has not committed this sector. The EC requests that it be committed at the two-digit level as follows:

Computer and Related Services (CPC 84)

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

F. OTHER BUSINESS SERVICES

Bolivia has not committed this sector. The EC requests that it be committed as follows:

a) Advertising (CPC 871)

b) Market research (CPC 86401)

c) Management consulting service (CPC 865)

d) Services related to management consulting (CPC 866)

e) Technical testing and analysis services (CPC 8676)

m) Related scientific and technical consulting services (CPC 8675)

n) Maintenance and Repair of Equipment (not including transport equipment) (CPC 633 + 8861-8866)

EC Request for each of the above sub-sectors:

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

The EC also invites Bolivia to consider taking commitments on Rental and Leasing Services without Operators (CPC 831)

TELECOMMUNICATIONS SERVICES

EC REQUEST TO BOLIVIA

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

ALL MODES

- At this stage there are no commitments in Electronic mail, Voice mail, Online information and data base retrieval, electronic data interchange (EDI), enhanced/value-added facsimile services, incl. Store and forward, store and retrieve, code and protocol conversion. **EC Request:** Make full commitments in all sub-sectors, i.e. schedule “none”.
- Commercial presence is required for local services and all services registered under the category “o. Other” (Mobile services (supplied by land radio stations), Cellular services; Mobile data services; Radio determination and radio navigation; Paging services; Personal communications services; Satellite mobile services, dispatch services). **EC Request:** Remove this provision in the schedule.

MODES 1 AND 3

The schedule states that it is “subject to spectrum availability”. **EC Request:** Remove this restriction as it does not need to be scheduled.

MODE 1

Callback for international voice services is prohibited. **EC Request:** Remove this restriction

MODE 3

- ENTEL has been granted an exclusive contract for six years to provide domestic and international long-distance telecommunication services (excluding mobile telecommunication services). **EC Request:** Remove this restriction as it will have elapsed.
- 16 local telecommunication cooperatives have obtained exclusive contracts for the supply of local telecommunication services in defined geographical areas. **EC Request:** Remove this exclusivity.

ADDITIONAL COMMITMENTS

Bolivia has only adopted parts of the reference paper. **EC Request:** Commit fully to the reference paper of the Basic Telecommunication negotiations.

CONSTRUCTION AND RELATED ENGINEERING SERVICES

EC REQUEST TO BOLIVIA

Bolivia has not committed this sector. The EC requests that it be committed as follows:

ALL SUB SECTORS (CPC 511 to CPC 518)

EC Request for each sub-sector:

- Mode 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

DISTRIBUTION SERVICES

EC REQUEST TO BOLIVIA

Bolivia has not committed this sector. The EC requests that it be committed as follows:

B. WHOLESALE TRADE SERVICES (CPC 622, 6111+6113+6121)

C. RETAILING SERVICES (CPC 631+632, 6111+6113+6121+613)

EC Request for each of the above sub-sectors:

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

Note: The EC is prepared to discuss exceptions for a very limited number of extremely sensitive goods, such as arms, ammunitions and explosives.

Note: In accordance with the W120 classification the EC Request on “Repair services of personal and household goods” (CPC 633) is included under “1. Business services / F. Other Business / n. Maintenance and repair”.

ENVIRONMENTAL SERVICES

EC REQUEST TO BOLIVIA

Bolivia has not committed this sector. This request is based on the EC proposal for the classification of environmental services. While discussions on classification in this sector are still ongoing, the EC would like to invite Bolivia to present its offer in accordance with this proposal, without prejudice to the outcome of the discussion on the classification of environmental services:

A. WATER FOR HUMAN USE & WASTEWATER MANAGEMENT

Water collection, purification and distribution services through mains, except steam and hot water.

This sub-sector only concerns the distribution of water ‘through mains’ (i.e. urban sewage systems). This excludes any cross-border transportation either by pipeline or by any other means of transport, nor does it imply access to water resources.

EC Request:

- Mode 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

Wastewater services (CPC 9401)

EC Request:

- Mode 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

B. SOLID/HAZARDOUS WASTE MANAGEMENT

Refuse disposal services (CPC 94020)

EC Request:

- Mode 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

Sanitation and similar services (CPC 94030)

EC Request:

- Mode 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

C. PROTECTION OF AMBIENT AIR AND CLIMATE

Services to reduce exhaust gases and other emissions and improve air quality (CPC 94040)

EC Request:

- Mode 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

D. REMEDIATION AND CLEANUP OF SOIL & WATER

Treatment, remediation of contaminated/polluted soil and water (part of CPC 94060)

EC Request:

- Mode 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

F. PROTECTION OF BIODIVERSITY AND LANDSCAPE

Nature and landscape protection services (part of CPC 94060)

EC Request:

- Mode 1, 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

G. OTHER ENVIRONMENTAL & ANCILLARY SERVICES

Other environmental protection services not classified elsewhere (CPC 94090)

EC Request:

- Mode 1 and 3: Take commitments for MA and NT
- Mode 4: Commit as referred to in the section "Horizontal commitments"

FINANCIAL SERVICES

EC REQUEST TO BOLIVIA

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

GENERAL

- Bolivia has not yet accepted the Fifth protocol. **EC Request:** Ratify

INSURANCE

- Prior authorisation is required for activities and operation. **EC Request:** Specify the criteria, that should be transparent and non-discriminatory.
- NT – Unbound in most subsectors and modes. **EC Request:** Schedule “none” in modes 1,2 and 3, and “unbound except as indicated in the horizontal commitments” in mode 4.
- Modes 1 and 2: MA and NT- Unbound for non-life insurance. **EC Request:** Take full commitments in MAT insurance in accordance with the Understanding on Commitments in Financial Services.
- Mode 3: MA- Economic needs test in direct insurance and reinsurance. **EC Request:** Remove this test.
- Mode 3: NT- Minimum amount of capital and reserves required for reinsurance branches. **EC Request:** Remove these requirements.
- Modes 1 and 2: MA and NT- Unbound for insurance brokers and agents. **EC Request:** Take commitments in reinsurance intermediation and in MAT insurance intermediation in accordance with the Understanding on Commitments in Financial Services.
- Modes 1 and 2: MA and NT- Unbound for consultancy, actuarial and other services auxiliary to insurance. **EC Request:** Schedule “none”

BANKING AND OTHER FINANCIAL SERVICES

- Asset management is not covered. **EC Request:** Take commitments in modes 2 and 3 in this subsector
- Mode 3: MA- Minimum amount of capital and reserves required for branches of financial entities. **EC Request:** Remove these requirements
- Mode 2: MA and NT- Unbound on all subsectors. **EC Request:** Schedule “none”

NEWS AGENCY SERVICES

EC REQUEST TO BOLIVIA

Bolivia has not committed this sector (CPC 962). The EC invites Bolivia to consider committing this sector as follows:

EC Request (CPC 962):

- Modes 1-3: Consider taking full commitments, i.e. schedule "none" under MA and NT.
- Mode 4: Consider committing as referred to in the section "Horizontal commitments".

TRANSPORT SERVICES

EC REQUEST TO BOLIVIA

Bolivia has no specific commitments in the transport sector, which is subject to two MFN exemptions. The EC requests that it be committed as follows:

MFN EXEMPTIONS

- An MFN exemption for maritime and multimodal freight transportation allows preferential treatment for operators in the Andean sub-region concerning freedom of access to maritime freight transportation within the sub-region, including in coastal waters. **EC Request:** Remove or limit scope

C. AIR TRANSPORT

1) Maintenance and repair of aircraft and parts thereof

EC Request:

- Modes 2 and 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred on the section “Horizontal commitments”

2) Selling and marketing

EC Request:

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

3) Computer Reservation System

EC Request:

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

4) Groundhandling services, as specified in the attached definitions (Annex 2)

EC Request:

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

5) Airport management services, as specified in the attached definitions (Annex 1)

EC Request:

- Mode 3: Take full commitments, i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

F. ROAD TRANSPORT

b) Freight Transport (CPC 7123)

EC Request:

- Mode 3: Take full commitments i.e. schedule “none” under MA and NT
- Mode 4: Commit as referred to in the section “Horizontal commitments”

d) Maintenance and Repair of Road Transport Equipment (CPC 6112)

EC request:

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

H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT

b) Storage and Warehouse Services (CPC 742)

EC Request:

- Modes 2 and 3: Take full commitment, i.e. schedule “none”, under MA and NT
- Mode 4: Commit as referred in the section “Horizontal commitments”

c) Freight Transport Agency/Freight Forwarding Services (CPC 748) and Pre-shipment Inspection (part of CPC 749)

EC Request:

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

ANNEX 1: FACILITATING AIR TRANSPORT SERVICES

Ground-handling Services

Efficient ground handling is essential to the proper functioning of air transport and competition between operators in this area ensures that proper use is made of air transport infrastructure. It helps reduce the operating costs of airlines and improves the quality of service for airport users.

For specialised ground handling suppliers the following activities are requested:

Ground Administration - supervision and administration at the airport (CPC 7461);
Passenger Handling - assisting arriving, departing and transfer passengers (CPC 7461);
Baggage Handling - handling baggage in the sorting area (CPC 7461);
Freight and Mail Handling - physical handling of freight and mail, dealing with security and customs procedures (CPC 74110 (container handling services) and 74190 (other cargo handling services));
Ramp Handling - marshalling and moving the aircraft, loading and unloading of aircraft, transport of passengers, freight, supplies (CPC 7469);
Fuel and Oil Handling - organisation and provision of fuel and oil;
Aircraft Maintenance - covered specifically by the Annex as above;
Flight Operations and Crew Administration - preparation of the flight, inflight and post-flight assistance, crew administration;
Surface Transport – organisation and execution of transport within airport - except to and from aircraft;
Catering Services (CPC 6423) - addressed under the EC request on tourism and travel related services

Airport management services

Airport management services constitute the core activities of airport services providers and cover: Airport operation services (excl. cargo handling), including passenger air terminal services and ground services on air fields, including runway operating services, on a fee or contract CPC 74610. Activities are also related to "other management consulting services" (CPC 86509) and activities separately specified under "other management services not elsewhere classified"(CPC 86609). A commitment will allow services suppliers to take an equity stake in - and engage in the overall operation and management of - airports when these are open for investments from private operators. Thereby it will bind existing common practices in the sector.

MFN EXEMPTIONS

EC REQUEST TO BOLIVIA

- MFN exemption in the area of maritime and multimodal freight transportation.
EC Request: Refer to the EC request in the sector of “Transport services” in this respect.