

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/SPEC/CGR/2/Rev.3
25 January 2008

(08-0375)

**Working Party on the
Accession of Montenegro**

Original: English

ACCESSION OF MONTENEGRO

Offer on Specific Commitments in Services

Revision

The following submission, dated 21 January 2008, is being circulated at the request of the Delegation of the Republic of Montenegro.

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			
Public utilities	(3) Services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators ¹ .		
Legal entities Limitations on branches, agencies and representative offices		(3) Treatment accorded to subsidiaries having their registered office, central administration or principal place of business within Montenegro may not be extended to branches or agencies established in Montenegro. Treatment less favourable may be accorded to subsidiaries with a registered office in Montenegro that cannot show an effective and continuous link with Montenegro's economy.	
Subsidies		(3) Eligibility for subsidies may be limited to juridical persons established within the territory of Montenegro or a particular geographical sub-division thereof. Unbound for subsidies for research and development. The supply of a service, or its subsidisation, within the public sector is not in breach of this commitment. (4) To the extent that any subsidies are made available to natural persons, their availability may be limited to citizens of Montenegro.	

¹ Explanatory Note: Public utilities exist in sectors such as related scientific and technical consulting services, R&D services on social sciences and humanities, technical testing and analysis services compulsory for the granting of marketing or utilisation authorisations (food safety, drug safety and testing for motor vehicles for protecting the environment), environmental services other than environmental advisory services, health services transport services and services auxiliary to all modes of transport. Exclusive rights on such services are often granted to private operators, for instance operators with concessions from public authorities, subject to specific service obligations. Given that public utilities often also exist at the sub-central level, detailed and exhaustive sector-specific scheduling is not practical.

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
Commercial Presence	<p>(3) A foreign person may not have majority ownership in enterprises dealing with weapons and ammunition, or in enterprises established in the restricted areas and must have the approval of the competent ministry for investments in such cases. However, a foreign person may establish or invest in such a company with a domestic person.</p>		
Temporary Entry and Stay of Natural Persons	<p>(4) Unbound except for measures concerning the entry into and temporary stay in Montenegro of the following categories of natural persons providing services:</p> <p>(i) <u>Intra-corporate transfers (ICT)</u></p> <p>Entry and stay for a maximum of 3 years will be granted to persons transferred within a corporation and its subsidiaries and branches who:</p> <ul style="list-style-type: none"> - have been employed by a juridical person established in another WTO Member for at least one year immediately preceding the date of admission; - are temporarily transferred in the context of the provision of a service in Montenegro to a subsidiary or branch that is providing services in Montenegro; - are Managers, Executives or Specialists. 	<p>(4) Unbound except for measures concerning the categories of natural persons referred to in the Market Access column.</p>	

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
	<p>Managers are persons working in a senior position who primarily direct the organization, including (a) directing the establishment or a department or sub-division of the establishment; (b) supervising and controlling the work of other supervisory, professional or managerial employees; and (c) having the authority personally to hire and fire or recommend hiring, firing or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p> <p><u>Managers:</u> persons within an organization who primarily direct the organization, or department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring, firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p>		

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
	<p><u>Executives:</u> are persons within the organization, who primarily direct the management of the organization, establish the goals and policies of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of a service or services.</p> <p><u>Specialists:</u> are persons who possess uncommon knowledge essential to an establishment's service, research equipment, techniques or management. In assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession. An economic needs test will not be required.</p> <p>(ii) <u>Business Visitors (BV)</u></p> <p>Entry and temporary stay of the following categories is permitted without application of an economic needs test for a period of up to 90 days in any twelve months:</p> <p>(a) Service sellers - persons not residing in Montenegro who are representatives of a service supplier and are seeking temporary entry for the purpose of negotiating and contracting for the sale of services but are not engaged in making direct</p>		

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
	<p>sales to the general public or in supplying services themselves;</p> <p>(b) Persons responsible for setting up a commercial presence- managers who are responsible for setting up in Montenegro a commercial presence of a service provider of another WTO Member and who is not engaged in making direct sales or in supplying services; when the service provider has no other commercial presence in Montenegro.</p> <p>(iii) <u>Contractual service suppliers (CSS)</u></p> <p>Access will be granted to natural persons engaged in the supply of a service on a temporary basis as employees of a legal person with no commercial presence in Montenegro, subject to the following conditions:</p> <ul style="list-style-type: none"> - The legal person has obtained a service contract, for a period not exceeding 12 months from a final consumer in Montenegro, through a procedure which guarantees the bona fide character of the contract²; - The service contract complies with the laws of Montenegro; - The natural person seeking access should be offering such services as an employee of the legal person supplying the service for at least a year immediately preceding such movement; - The temporary entry and stay shall be for a cumulative period of not 		

² The competent authorities in Montenegro must be able to establish that the contract has been awarded to that juridical person in accordance with the requirements set.

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
	<p>more than three months in any 12 month period or for the duration of the contract, whatever is less;</p> <ul style="list-style-type: none"> - The natural person must possess <ul style="list-style-type: none"> (a) a university degree or a technical qualification demonstrating knowledge of an equivalent level³, (b) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws, regulations or requirements of Montenegro; and (c) at least three years professional experience in the sector; - The commitment relates only to the service activity which is the subject of the contract; it does not confer entitlement to exercise a professional title in Montenegro; - The number of the persons covered by the service contract shall not be larger than necessary to fulfil the contract; - The service contract has to be obtained in one of the activities mentioned below: <ul style="list-style-type: none"> - Legal services; - Accounting and bookkeeping services; - Architectural services, urban planning and landscape architectural services; - Engineering services, integrated engineering services; - Computer and related services - Advertising; 		

³ Where the degree or qualification has not been obtained in Montenegro, the latter may evaluate whether this is equivalent to a university degree acquired in Montenegro.

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
	<ul style="list-style-type: none"> - Management consulting services; - Services related to management consulting; - Technical testing and analysis services; - Related scientific and technical consulting services; - Translation services; and - Environmental 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
II. SECTOR SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. Professional Services			
(a) Legal services - Consultancy on foreign, international and domestic law (part of CPC 861)	(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) Accounting, auditing and bookkeeping services (CPC 862)	(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) Taxation services ⁴ (CPC 863)	(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.	
(d) Architectural services (CPC 8671) (e) Engineering services (CPC 8672) (f) Integrated engineering services (CPC 8673)	(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.	
(g) Urban planning and landscape architectural services (CPC 8674)	(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.	
(h) Medical and dental services (CPC 9312)	(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.	

⁴ Legal advice and legal representation in taxation matters are not included, since committed under legal services (part of CPC 861).

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) Veterinary services (CPC 932)	(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.	
(j) Services provided by midwives, nurses, physiotherapists and para-medical personnel (CPC 93191)	(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. Computer and Related Services			
- Computer and related services (CPC 84) Montenegro subscribes to the "Understanding on the scope of coverage of Computer Services - (CPC 84)" attached in Annex I.	(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. Research and Development Services			
(a) R&D services on natural sciences (CPC 851) (b) R&D services on social sciences and humanities (CPC 852) (c) Interdisciplinary R&D services (CPC 853)	(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.	
D. Real Estate Services			
(a) Involving own or leased property (CPC 821) (b) On a fee or contract basis (CPC 822)	(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. Rental/Leasing Services without Operators			
(a) Relating to ships (CPC 83103)	(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.	

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
(b) Relating to aircraft (CPC 83104)	(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) Relating to other transport equipment (CPC 83101, 83102, 83105)	(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.	
(d) Relating to other machinery and equipment (CPC 83106 - 83109)	(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: - Rental services relating to pre-recorded video cassettes and optical discs for use in home entertainment equipment (CPC 83202)	(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.	
F. Other Business Services			
(a) Advertising services (CPC 871)	(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) Market research and public opinion polling services (CPC 864)	(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) Management consulting services (CPC 865)	(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.	

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) Services related to management consulting (CPC 866)	(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) Technical testing and analysis services (CPC 8676)	(1) Institutions have to be registered in the international accreditation system. (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.	
(f) Advisory and Consulting Services incidental to agriculture, hunting, forestry and fishing (CPC 881, 882)	(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.	
(k) Supply services of personnel (CPC 87203)	(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.	
(l) Investigation and security (CPC 873)	(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.	
(m) Related scientific and technical consulting services (CPC 8675)	(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.	
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633, 8861-8866)	(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.	

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
(o) Building-cleaning services (CPC 874)	(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.	
(p) Photographic services (CPC 875)	(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.	
(q) Packaging services (CPC 876)	(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.	
(r) Printing, publishing (CPC 88442)	(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.	
(s) Convention services (CPC 87909, planning, managing and marketing services for conventions and similar events)	(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.	
(t) Other: - Translation and interpretation services (CPC 87905)	(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.	

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. COMMUNICATION SERVICES			
A. Postal services⁵ B. Courier services (CPC 7511-7512) Services relating to the handling ⁶ of postal items ⁷ according to the following list of sub-sectors, whether for domestic or foreign destinations.			
(a) Handling of addressed written communications on any kind of physical medium ⁸ , including: - Hybrid mail service; - Direct mail. (b) Handling of addressed parcels and packages ⁹ (c) Handling of addressed press products ¹⁰ (d) Handling of items referred to in (a) to (c) above as registered or insured mail (e) Express delivery services ¹¹ for items referred to in (a) to (c) above (f) Handling of non-addressed items (g) Document exchange ¹²	(1) (2) (3) Licensing systems may be established for sub-sectors (a) to (d), for which a general Universal Service Obligations exists. These licenses may be subject to particular universal service obligations and/or financial contribution to a compensation fund. None for sub-sectors (e) to (g). (4) Unbound except as indicated in the horizontal section.	(1) (2) (3) None. (4) Unbound except as indicated in the horizontal section.	Private operators cannot be treated less favourably than the National Post Office of Montenegro in providing express delivery services.

⁵ While discussions on classification in this sector are still ongoing, the commitment is listed according to the proposed classification that has been notified to WTO by the EC and its Member States on 23 March 2001 (WTO document S/CSS/W/61) and of the scheduling guidelines on postal/courier co-sponsored by the EC on 17 February 2005 (WTO document TN/S/W/30), without prejudice to the outcome of the discussion on the classification of postal and courier services.

⁶ The term "handling" should be taken to include clearance, sorting, transport and delivery.

⁷ "Postal item" refers to items handled by any type of commercial operator, whether public or private.

⁸ E.g. letter, postcards.

⁹ Books, catalogues are included hereunder.

¹⁰ Journals, newspapers, periodicals.

¹¹ Express delivery services may include, in addition to greater speed and reliability, value added elements such as collection from point of origin, personal delivery to addressee, tracing and tracking, possibility of changing the destination and addressee in transit, confirmation of receipt.

¹² Provision of means, including the supply of ad hoc premises as well as transportation by a third party, allowing self-delivery by mutual exchange of postal items between users subscribing to this service. Postal item refers to items handled by any type of commercial operator, whether public or private.

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
<p>Sub-sectors (a), (d) and (e) are excluded when they fall into the scope of the services which may be reserved, which is: for items of correspondence the price of which is less than five times the public basic tariff, provided that they weigh less than 350 grams¹³, plus the registered mail service used in the course of judicial or administrative procedures.</p>			
C. Telecommunication Services			
<p>- Telecommunications</p> <p>All services consisting of the transmission and reception of signals by any electromagnetic means, excluding broadcasting. Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of TV and radio programme signals to the general public, but does not cover contribution links between operators.</p> <p>Telecommunications services do not cover the economic activity consisting of the provision of content services which require telecommunications services for their transport.</p> <p>These services may be provided on a facilities basis or non-facilities basis, and encompass local, long-distance, or international services, for public or non-public use, and may be provided through any means of technology.</p> <p>(Exclusion for radio and television broadcasting.)</p>	<p>(1) None, except for Call-back services, where: unbound.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in horizontal commitments.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in horizontal commitments.</p>	<p>Montenegro undertakes the obligations contained in the reference paper attached hereto for the following basic telecommunications services:</p> <p>a) Voice telephone services;</p> <p>b) Packet-switched data transmission services;</p> <p>c) Circuit-switched data transmission services;</p> <p>d) Telex services;</p> <p>e) Telegraph services;</p> <p>f) Facsimile services;</p> <p>g) Private leased circuit services; and</p> <p>o) Other.</p>

¹³ "Items of correspondence": a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Books, catalogues, newspapers and periodicals are not regarded as items of correspondence.

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			
A. General construction work for buildings (CPC 512)	(1) Unbound. (2) None. (3) None.	(1) Unbound. (2) None. (3) None.	
B. General construction work for civil engineering (CPC 513)	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
C. Installation and assembly work (CPC 514, 516)			
D. Building completion and finishing work (CPC 517)			
E. Other: (CPC 511, 515, 518)			
4. DISTRIBUTION SERVICES			
A. Commission agents' services (CPC 621, 61111, 6113, 6121)	(1) None. (2) None. (3) None.	(1) None. (2) None. (3) None.	
B. Wholesale trade services (CPC 622, CPC 61111, 6113, 6121)	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
C. Retailing services (CPC 631, 632, 61112, 6113, 6121, 613)			
D. Franchising (CPC 8929)			
5. EDUCATIONAL SERVICES (only privately funded services)			
A. Primary education services (CPC 921)	(1) None. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) None. (2) None. (3) A private elementary school may be established only by a domestic natural or legal person. (4) Unbound, except as indicated in the horizontal section.	
B. Secondary education services (CPC 922)	(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.	

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. Higher Education Services (CPC 923)	(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.	
D. Adult education (CPC 924)	(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.	
6. ENVIRONMENTAL SERVICES			
A. Water for human use and wastewater management (wastewater services corresponds to sewage services) (CPC 9401)	(1) Unbound, except for advisory services where none. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) Unbound except for advisory services where none. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
B. Solid/Hazardous waste management - Refuse disposal services (CPC 9402) - Sanitation and similar services (CPC 9403)			
C. Protection of ambient air and climate - Cleaning services of exhaust gases (CPC 9404)			
D. Remediation and clean up of soil and waters - Treatment, remediation of contaminated/polluted soil and water (part of CPC 9406) Corresponds to parts of Nature and landscape protection services			
E. Noise and vibration abatement (CPC 9405)			
F. Protection of biodiversity and landscape - Nature and landscape protection services (parts of CPC 9406 not covered under D)			

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			
<ul style="list-style-type: none"> - As a general rule and in a non-discriminatory manner, financial institutions incorporated in Montenegro must adopt a specific legal form¹⁴. - The admission to the market of new financial products may be subject to existence of, and consistency with, a regulatory framework aimed at achieving the objectives indicated in Article 2(a) of the Annex on Financial Services. 			
A. All insurance and insurance - related services			
<ul style="list-style-type: none"> - Insurance company may not offer services of life and non-life insurance simultaneously. Exceptionally insurance company providing life insurance services may provide non-life insurance such as insurance against accidents as well as voluntary health insurance to its customers up to the level of treatment costs. - Compulsory insurance can be provided only by insurance companies licensed in Montenegro and state funds. Compulsory insurance implies obligatory insurance in traffic, collective insurance of employees against industrial accidents and obligatory pension and health insurance. 			
i. Direct insurance (including co-insurance)			
(a) Life insurance	<ul style="list-style-type: none"> (1) Unbound, except for provision of life insurance to foreign nationals where none. (2) None. (3) Branching will be allowed as of January 2012. (4) Unbound, except as indicated in the horizontal section. 	<ul style="list-style-type: none"> (1) None. (2) None. (3) Branching will be allowed as of January 2012. (4) Unbound, except as indicated in the horizontal section. 	

¹⁴ - Foreign insurance companies are required to establish subsidiaries which must be incorporated as joint stock companies. Branching will be allowed as of January 2012;

- Company for intermediation in insurance and agency for provision of other services may be established as a joint stock or limited liability company;
- Foreign banks may establish subsidiaries, branch offices of representative offices in the territory of the Republic of Montenegro. Representative offices of foreign banks may provide only preparatory activities such as market research and may not provide banking services;
- Broker and dealer companies, credit guarantee funds investment funds and a stock exchange must be incorporated as joint stock companies;
- Micro finance institutions and legal entities for provision of investment advisory services must be incorporated as limited liability companies or joint stock companies;
- Company for investment fund management company must be incorporated as a joint stock or limited liability company, while asset management company performing activity of managing and organizing voluntary pension funds must be established as a non-public joint stock company.

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
(b) Non-life insurance	<p>(1) Unbound, except for insuring property of foreign nationals as well as insurance of risks relating to marine shipping and commercial aviation to cover the goods being transported, the vehicles transporting the goods and liability arising therefrom above compulsory insurance, where none.</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	
(c) Reinsurance and retrocession	<p>(1) None.</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	
- Insurance intermediation, such as brokerage and agency	<p>(1) Unbound except for insurance services for which full commitments are taken under subsectors (i) and (ii).</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	
(d) Services auxiliary to insurance such as consultancy, actuarial, risk assessment and claim settlement services	<p>(1) Unbound except for insurance services for which full commitments are taken under subsectors (i) and (ii).</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) Branching will be allowed as of January 2012.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	

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
B. Banking and other financial services			
One out of five members of the bank's management board and at least two executive directors must speak the official language of Montenegro and be resident in the Republic for the duration of the engagement.			
(a) Acceptance of deposits and other repayable funds from the public	(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) Lending of all types, consumer credit, mortgage credit, factoring and financing of commercial transaction	(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) Financial leasing			
(d) All payment and money transmission services including credit charge and debit cards, traveller's cheques and bankers drafts			
(e) Guarantees and commitments			
(f) Trading for own account or for account of customers on an exchange market the following: - money market instruments (cheques, bills, certificate of deposits, etc.); - foreign exchange; - derivative products (including, but not limited to, futures and options); - exchange rate and interest rate instruments, such as swaps and forward rate agreements; - transferable securities; - other negotiable instruments and financial assets, such as bullion.	(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.	
(g) Participation in issues of all kinds of securities, under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues	(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.	
(h) Money broking			

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) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services	<p>(1) The establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies. Only firms having their registered office in Montenegro can act as depositories of the assets of investment funds.</p> <p>(2) None.</p> <p>(3) The establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies. Only firms having their registered office in Montenegro can act as depositories of the assets of investment funds.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	
(j) Settlement and clearing services for financial assets: securities, derivative products, and other negotiable instruments	<p>(1) Unbound.</p> <p>(2) None.</p> <p>(3) This type of services may be provided by Central Depository of Securities only.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	
(k) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (a) through (l), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	
(l) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None.</p> <p>(2) None.</p> <p>(3) None.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	

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
8. HEALTH RELATED AND SOCIAL SERVICES (only privately funded services)			
A. Hospital services (CPC 9311)	(1) Unbound. (2) None.	(1) Unbound. (2) None.	
B. Other human health services (CPC 9319)	(3) None. (4) Unbound, except as indicated in the horizontal section.	(3) None. (4) Unbound, except as indicated in the horizontal section.	
9. TOURISM AND TRAVEL RELATED SERVICES			
A. Hotels and restaurants (incl. catering) (CPC 641- 643) (excluding catering in transport services sector)	(1) Unbound, except for catering where none. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) Unbound, except for catering where none. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
B. Travel agencies and tour Operators services (CPC 7471)	(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. Tourist guides services (CPC 7472)	(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.	
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)			
B. News agency services (CPC 962)	(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.	
D. Sporting and other recreational activities, excluding gambling and betting services (CPC 9641, 96491)	(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.	

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. TRANSPORT SERVICES			
A. Maritime Transport Services			
(a) Passenger transportation (CPC 7211) (b) Freight transportation (CPC 7212) except cabotage ¹⁵	(1) None. (2) None. (3) (a) Establishment of a registered company for the purpose of operating a fleet under the Montenegrin flag: Unbound. (b) Other forms of commercial presence for the supply of international maritime transport services: None. ¹⁶ (4) (a) Ship's crews: Unbound. (b) Unbound, except as indicated in the horizontal section.	(1) None. (2) None. (3) (a) Unbound. (b) None. (4) (a) Unbound. (b) Unbound, except as indicated in the horizontal section.	The following services at the port are made available to international maritime transport suppliers on reasonable and no discriminatory terms and conditions: 1. Pilotage; 2. Towing and tug assistance; 3. Provisioning, fuelling and watering; 4. Garbage collecting and ballast waste disposal; 5. Port Captain's services; 6. Navigation aids; 7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies; 8. Emergency repair facilities; and 9. Anchorage, berth and berthing services.
(c) Rental of vessels with crew (CPC 7213)	(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.	
(d) Maintenance and repair of vessels (CPC 8868**)	(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.	

¹⁵ Without prejudice to the scope of activities which may be considered as "cabotage" under the relevant national legislation, this schedule does not include "maritime cabotage services", which are assumed to cover transportation of passengers or goods between a port located in Montenegro and another port located in Montenegro, traffic originating and terminating in the same port located in Montenegro provided that this traffic remains within Montenegro's territorial waters, and transportation of passengers and goods between a port located in Montenegro and installations or structures situated on the continental shelf of Montenegro.

¹⁶ "Other forms of commercial presence for the supply of international maritime transport services" means the ability for international maritime transport service suppliers of other Members to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.)

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) Pushing and towing services (CPC 7214), except cabotage	(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.	
- Maritime cargo handling services ¹⁷	(1) Unbound except no limitation on transshipment (board to board or via the quay) or on the use of on-board cargo handling equipment. (2) None. (3) None. ¹⁸ (4) Unbound, except as indicated in the horizontal section.	(1) Unbound except no limitation on transshipment (board to board or via the quay) or on the use of on-board cargo handling equipment. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
- Storage and warehousing services (CPC 742) - Customs clearance services ¹⁹ - Container station and depot services ²⁰	(1) Unbound. (2) None. (3) None. ²¹ (4) Unbound, except as indicated in the horizontal section.	(1) Unbound. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	

¹⁷ "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of (a) the loading/discharging of cargo to/from a ship; (b) the lashing/unlashing of cargo; and (c) the reception/delivery and safekeeping of cargoes before shipment or after discharge.

¹⁸ Public utility concession or licensing procedures may apply in case of occupation of the public domain.

¹⁹ "Customs clearance services" means activities consisting in carrying out, on behalf of another party, customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

²⁰ "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

²¹ Public utility concession or licensing procedures may apply in case of occupation of the public domain.

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
- Maritime agency services ²² - Maritime freight forwarding services ²³	(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. Air Transport Services			
(d) Maintenance and repair of aircraft (CPC 8868**)	(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) Supporting services for air transport - Selling and marketing of air transport services - Computer Reservation System (CRS)	(1) None. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) None, except for distribution through CRS of air transport services provided by CRS parent carrier: Unbound. (2) None. (3) None except for distribution through CRS of air transport services provided by CRS parent carrier: Unbound. (4) Unbound, except as indicated in the horizontal section.	
E. Rail Transport Services			
(d) Maintenance and repair of rail transport equipment (CPC 8868**)	(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) Supporting services for rail transport services (CPC 7430)	(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.	

²² "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes: (a) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and (b) acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

²³ "Freight forwarding services" means (the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information).

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
F. Road Transport Services			
(a) Passenger transportation (CPC 7121, 7122)	(1) Unbound. (2) None.	(1) Unbound. (2) None.	
(b) Freight transportation (CPC 7123)	(3) Unbound. (4) Unbound, except as indicated in the horizontal section.	(3) Unbound. (4) Unbound, except as indicated in the horizontal section.	
(c) Rental of commercial vehicles with operator (CPC 7124)	(1) Unbound. (2) None. (3) None.	(1) Unbound. (2) None. (3) None.	
(d) Maintenance and repair of road transport equipment (CPC 6112, 8867)	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
(e) Supporting services for road transport services (CPC 744)			
H. Services auxiliary to all modes of transport			
(a) Cargo-handling services except in airports (CPC 741)	(1) Unbound. (2) None. (3) None.	(1) Unbound. (2) None. (3) None.	
(b) Storage and warehousing services (CPC 742)	(4) Unbound, except as indicated in the horizontal section.	(4) Unbound, except as indicated in the horizontal section.	
(c) Freight transport agency services (CPC 748)	(1) None. (2) None.	(1) None. (2) None.	
(d) Other supporting and auxiliary transport services (CPC 749)	(3) None. (4) Unbound, except as indicated in the horizontal section.	(3) None. (4) Unbound, except as indicated in the horizontal section.	

ANNEX I

Understanding on the scope of coverage of CPC 84 - Computer and Related Services

CPC 84 covers all computer and related services.

Technological developments have led to the increased offering of these services as a bundle or package of related services that can include some or all of the basic functions listed in paragraph 3. For example, services such as web or domain hosting, data mining services and grid computing each consist of a combination of basic computer services functions.

Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide any of the following or any combination thereof:

- consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems;
- consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for software²⁴;
- data processing, data storage, data hosting or database services;
- maintenance and repair services for office machinery and equipment, including computers; and
- training services for staff of clients, related to software, computers or computer systems, and not elsewhere classified.

In many cases, computer and related services enable the provision of other services²⁵ by both electronic and other means. However, in such cases, there is an important distinction between the computer and related service (e.g., web-hosting or application hosting) and the other service enabled by the computer and related service. The other service, regardless of whether it is enabled by a computer and related service, is not covered by CPC 84.

²⁴ The term “software” may be defined as the sets of instructions required to make computers work and communicate. A number of different programmes may be developed for specific applications (application software), and the customer may have a choice of using ready-made programmes off the shelf (packaged software), developing specific programmes for particular requirements (customized software) or using a combination of the two.

²⁵ E.g., W/120.1.A.b. (accounting, auditing and bookkeeping services), W/120.1.A.d. (architectural services), W/120.1.A.h. (medical and dental services), W/120.2.D (audiovisual services), W/120.5. (educational services).

**ANNEX TO THE UNDERSTANDING ON THE SCOPE OF COVERAGE OF CPC 84
COMPUTER AND RELATED SERVICES**

CPC Division 84 - Computer and Related Services

- 841 Consultancy services related to the installation of computer hardware.
- 8410 84100 Consultancy services related to the installation of computer hardware:
Assistance services to the clients in the installation of computer hardware (i.e. physical equipment) and computer networks.
- 842 Software implementation services:
All services involving consultancy services on, development and implementation of software. The term "software" may be defined as the sets of instructions required to make computers work and communicate. A number of different programmes may be developed for specific applications (application software), and the customer may have a choice of using ready-made programmes off the shelf (packaged software), developing specific programmes for particular requirements (customized software) or using a combination of the two.
- 8421 84210 Systems and software consulting services:
Services of a general nature prior to the development of data processing systems and applications. It might be management services, project planning services, etc.
- 8422 84220 Systems analysis services:
Analysis services include analysis of the clients' needs, defining functional specification, and setting up the team. Also involved are project management, technical coordination and integration and definition of the systems architecture.
- 8423 84230 Systems design services:
Design services include technical solutions, with respect to methodology, quality-assurance, choice of equipment software packages or new technologies, etc.
- 8424 84240 Programming services:
Programming services include the implementation phase, i.e. writing and debugging programmes, conducting tests, and editing documentation.
- 8425 84250 Systems maintenance services:
Maintenance services include consulting and technical assistance services of software products in use, rewriting or changing existing programmes or systems, and maintaining up-to-date software documentation and manuals. Also included are specialist work, e.g. conversions.
- 843 Data processing services.

8431 84310 Input preparation services:

Data recording services such as key punching, optical scanning or other methods for data entry.

8432 84320 Data-processing and tabulation services:

Services such as data processing and tabulation services, computer calculating services, and rental services of computer time.

8433 84330 Time-sharing services:

This seems to be the same type of services as 84320. Computer time only is bought; if it is bought from the customer's premises, telecommunications services are also bought. Data processing or tabulation services may also be bought from a service bureau. In both cases the services might be time sharing processed. Thus, there is no clear distinction between 84320 and 84330.

8439 84390 Other data processing services:

Services which manage the full operations of a customer's facilities under contract: computer room environmental quality control services; management services of in-place computer equipment combinations; and management services of computer work flows and distributions.

844 Database services.

8440 84400 Database services:

All services provided from primarily structured databases through a communication network.

Exclusions: Data and message transmission services (e.g. network operation services, value-added network services) are classified in class 7523 (Data and message transmission services).

Documentation services consisting in information retrieval from databases are classified in subclass 96311 (Library services).

845 Maintenance and repair services of office machinery and equipment including computers.

8450 84500 Maintenance and repair services of office machinery and equipment including computers:

Repair and maintenance services of office machinery, computers and related equipment.

849 Other computer services.

8491 84910 Data preparation services:

Data preparation services for clients not involving data processing services.

8499 84990 Other computer services n.e.c.:

Other computer related services, not elsewhere classified, e.g. training services for staff of clients, and other professional computer services.

ANNEX II

Postal and Courier Services

Text of Communication (WTO Document TN/S/W/26) of the European Communities on a Reference Paper on Postal and Courier Services

I. INTRODUCTION

1. This communication is a complement to the sectoral proposal S/CSS/W/61 of the European Communities and their Member States on the postal and courier sector, which notably contemplated the possibility of a reference paper for postal and courier services. The EC suggests that the following reference paper proposal on postal and courier services could be a model to be further discussed with Members with a view to insert a final version of the paper in the additional commitments of Members willing to take specific commitments in the postal and courier services sector.

2. The present proposal does not deal with two important issues, which should be discussed further, namely:

- (a) relations between WTO and UPU rules, which the EC considers should not be covered by the reference paper but should be further discussed among Members;
- (b) a list of examples of the anti-competitive practices mentioned in section 1 of the following proposal, as well as a list of practices which should not be considered as anti-competitive *per se*, which the EC considers should in principle be added to the reference paper at some stage.

II. PROPOSAL FOR A REFERENCE PAPER ON THE POSTAL AND COURIER SECTOR

Scope

The following are definitions and principles on the regulatory framework for all postal and courier services.

Definitions

An "individual licence" is an authorisation, granted to an individual supplier by a regulatory authority, which is required before supplying a given service.

Universal service is the permanent provision of a postal service of specified quality at all points in the territory of a Member at affordable prices for all users.

1. Prevention of anti-competitive practices in the postal and courier sector

Appropriate measures will be maintained or introduced for the purpose of preventing suppliers who, alone or together, have the ability to affect materially the terms of participation (having regard to price and supply) in the relevant market for postal and courier services as a result of use of their position in the market, from engaging in or continuing anti-competitive practices.

2. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

3. Individual licenses

An individual licence may only be required for services which are within the scope of the universal service.

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

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licenses.

The reasons for the denial of an individual licence will be made known to the applicant upon request and an appeal procedure through an independent body will be established at the Member's level. Such a procedure will be transparent, non-discriminatory, and based on objective criteria.

4. Independence of the regulatory body

The regulatory body is legally separate from, and not accountable to, any supplier of postal and courier services. The decisions of and the procedures used by the regulatory body will be impartial with respect to all market participants.

III. EXPLANATORY NOTES

A. What is a reference paper?

In addition to the general commitments imposed by GATS on all the services sectors it covers, Members can take "specific" commitments in the sectors of their choice. The specific commitments are described in the "schedule of commitments" of each Member and divided into market access (Article XVI of GATS), national treatment (Article XVII), and "additional commitments" (Article XVIII).

A reference paper is a list of these "additional commitments" for a given sector, which Members are invited to inscribe in their schedules of commitments if they wish to do so. Thus, the reference paper only has a legal value inasmuch as it is inscribed in a Member's schedule of commitments. But it can be a useful "reference" for negotiations on the liberalisation of trade in a given sector. There is to this day one reference paper, on telecommunications, which has been undertaken by a significant number of WTO Members²⁶.

B. Why a reference paper in postal and courier?

The postal and courier sector has some specific features:

- (a) importance of regulation;
- (b) predominance of State-owned operators; and

²⁶ Seventy-five Members have undertaken the reference paper in its entirety, five others have only done so partly.

- (c) tendency of the postal operators to diversify their activities (finance, telecommunications, internet, express).

These features mainly characterise the "traditional" activities where a universal service obligation exists, but they can "spill over" in other sub-sectors, such as express delivery (cross-subsidisation, for instance). They might justify specific rules for the postal and courier sector, in order:

- (a) to avoid that commitments in market access and national treatment are rendered ineffective by other practices specific to the sector; and
- (b) to have a common view on the scope of terms commonly used in schedules of commitments (such as universal service) in order to clarify commitments or possible restrictions to market access and national treatment which Members might wish to keep in their schedules of commitments.

C. The possible contents of the reference paper

This part describes each paragraph of the proposed reference paper.

Scope

It is proposed to draft a reference paper for the whole sector (postal and courier), including express delivery services.

Definitions

The terms of "users" and "essential facilities", defined in the reference paper on telecommunications (hereafter RPT), are not used in the proposal because they do not play the same role in the postal/courier sector.

It is proposed to include a definition of individual licenses and universal service, which did not exist in the RPT, but which seem necessary for the paragraphs dedicated to universal service and licensing procedures. The definition of universal service is consistent with (and inspired by) the definition given at UPU level.

Prevention of anti-competitive practices

This paragraph aims at preventing dominant players from abusing their market power. It is substantially inspired by the paragraph of the RPT. However, the subsequent paragraph of the RPT, which describes examples of such anti-competitive practices, has not been included as a further analysis of the anti-competitive practices specific to the postal and courier sector appears necessary.

Universal service

Universal service is a key component of the postal sector for most Members. The EC believes that this principle should be expressly mentioned in additional commitments rules. In particular, this paragraph confirms the possibility to impose universal services obligations provided they respect certain basic rules, such as transparency, non-discrimination and a neutral administration. It is entirely inspired by the RPT.

Licensing criteria

This paragraph aims at giving operators minimal guarantees in the licensing procedures. The wording of the RPT has been included, but mention of an appeal procedure has been added.

In addition, the possibility of imposing an individual licensing procedure on an operator would be restricted to services where a universal service obligation exists. This would answer concerns that some countries might actually feel enticed by the reference paper to add new licensing procedures in activities where such procedures did not exist yet (in express delivery services notably).

Independent regulators

This paragraph imposes the principle of an independent regulator. The provisions of the RPT have broadly been included.

D. Relations with UPU

The question of the relation between rules laid down by the UPU and the rules of the WTO will have to be dealt with by Members. One of these possible overlaps is the "terminal dues" system. Terminal dues are the tariffs received by universal services operators for the delivery of international mail. These tariffs are managed as per rules decided in the UPU but the question is whether the system, which draws a distinction between developed and developing countries and is not always related to costs, is consistent with GATS and notably its MFN obligation.

Because of its flexibility, a reference paper does not appear to be the right instrument to deal with this more systemic problem. However, the question of the relations between UPU rules and GATS should be addressed in the negotiations at some point, in order to support ongoing efforts within the UPU to establish a more cost-oriented terminal dues system.

REFERENCE PAPER

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 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

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on 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 networks 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 technically feasible point in the network. Such interconnection is provided.

- (a) under not-discriminatory terms, conditions (including technical standards and specifications) and rates and 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) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbounded so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

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 is 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 an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal services

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

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

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licenses.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

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, timely, transparent and non-discriminatory 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.

List of Article II MFN Exemptions of the Republic of Montenegro

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
Real estate All sectors	A foreign legal or natural person may acquire ownership of real property in Montenegro provided the reciprocity requirement is met.	All countries.	Indefinite.	Legal system reasons.
Legal services	Apart from consultancy services, other legal services provided by “advokats” (lawyers inscribed in the montenegrin Bar Registry) may be provided subject to reciprocity.	All countries.	Indefinite.	Reciprocal coordination of the legal profession within the overall regional development of judicial and administrative institutions.
Audiovisual services - Distribution of audiovisual works	Redressive duties which may be imposed in order to respond to unfair pricing practices, by certain foreign distributors of audiovisual works.	All Members.	Indefinite.	Unfair pricing practices may cause serious disruption to the distribution of Montenegrin works.
Audiovisual services	Measures taken to prevent, correct or counterbalance adverse, unfair or unreasonable conditions or actions affecting Montenegro audiovisual services, products or service providers, in response to corresponding or comparable actions taken by other Members.	All Members.	Indefinite. The need for exemption will lapse together with corresponding exemption from other Members.	Need to protect the Montenegro from adverse, unfair or unreasonable unilateral actions from other Members.
- Production and distribution of audiovisual works through broadcasting or other forms of transmission to the public.	Measures which define works of European origin, in such a way as to extend national treatment to audiovisual works which meet certain linguistic and origin criteria regarding access to broadcasting or similar forms of transmission.	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with whom an agreement may be concluded.	Indefinite. Exemption needed, for certain countries, only until an economic integration agreement is concluded or completed.	The measures aim, within the sector, to promote cultural values in Europe, as well as achieving linguistic policy objectives.

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
- Production and distribution of cinematographic works and television programmes	Measures based upon government-to-government framework agreements, and plurilateral agreements, on co-production of audiovisual works, which confer National Treatment to audiovisual works covered by these agreements, in particular in relation to distribution and access to funding.	All countries with whom cultural cooperation may be desirable (agreements already exist, or are being negotiated, with the following countries: Algeria, Angola, Argentina, Australia, Brazil, Burkina Faso, Canada, Cape Verde, Chile, Côte d'Ivoire, Colombia, Cuba, Egypt, Guinea Bissau, India, Israel, Mali, Mexico, Morocco, Mozambique, New Zealand, São Tomé e Príncipe, Senegal, States in Central, Eastern and South-Eastern Europe, Switzerland, Tunisia, Turkey, Venezuela).	Indefinite.	The aim of these agreements is to promote cultural links between the countries concerned.
- Production and distribution of television programmes and cinematographic works	Measures granting the benefit of any support programmes (such as Action Plan for Advanced Television Services, MEDIA or EURIMAGES) to audiovisual works, and suppliers of such works, meeting certain European origin criteria.	European countries.	Indefinite. Exemption needed, for certain countries, only until an economic integration agreement is concluded or completed.	These programmes aim at preserving and promoting the regional identity of countries within Europe which have long-standing cultural links.
Road transport services	Road transport licenses are issued subject to reciprocity.	All countries.	Indefinite.	International practice.

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
- Passenger and Freight	<p>Measures applied under existing or future agreement on international road transport and which reserve or limit the provision of transport services and the establishment of transport operators, and specify operating conditions, including transit permits, licenses and/or preferential road taxes of transport services into, in, across and out of Montenegro to the parties concerned.</p> <p>Provisions in existing or future agreements on international road haulage (including combined transport - road/rail) and passenger transport, concluded by Montenegro, which:</p> <ul style="list-style-type: none"> - reserve or limit the provision of a transport service between the contracting parties or across the territory of the contracting parties to vehicles registered in each contracting party; - provide for tax exemption for such vehicles. 	All countries with which agreements are or will be in force.	Indefinite.	The need for exemption is linked to the region characteristics of the road transport services and to the necessity to regulate traffic rights in the across the territory of Montenegro and between Montenegro and the countries concerned.
Selling marketing and computer Reservations systems of air transport services	The obligations of Montenegrin CRS system vendors or of Montenegrin parent and participating air carriers shall not apply, respectively, in respect of foreign parent carriers or of CRS controlled by foreign air carriers to the extent that their CRS outside Montenegro does not offer national treatment to Montenegrin air carriers or to Montenegrin parent and participating air carriers .	All countries where a CRS system vendor or a parent air carrier is located.	Indefinite.	The need for the exemption results from the insufficient development of multilaterally agreed rules for the operation of CRS.
All sectors	Measures based on bilateral agreements concluded by Montenegro with the objective of providing for the movement of all categories of natural persons supplying services.	Regional countries.	Indefinite.	The agreements reflect a process of progressive trade liberalisation between Montenegro and its regional trading partners.