

**Working Party on the
Accession of Vanuatu**

**DRAFT REPORT OF THE WORKING PARTY ON
THE ACCESSION OF VANUATU**

Addendum

Draft Schedule – Vanuatu

*Part II – Draft Schedule of Specific Commitments on Services
Draft List of Article II MFN Exemptions*

As indicated in paragraph 125 of the Draft Report of the Working Party on the Accession of Vanuatu (WT/ACC/VUT/13), the Schedule of Specific Commitments on Services resulting from the negotiations between Vanuatu and WTO Members will be annexed to the Protocol of Accession of Vanuatu. The Draft Schedule is reproduced hereunder.

Modes of Supply : 1) Cross-border Supply 2) Consumption abroad 3) Commercial Presence 4) Presence of Natural Persons

| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|---------------------------------|---|--|------------------------|
| I HORIZONTAL COMMITMENTS | | | |
| | <p>3) Government approval is required for all foreign investors under Foreign Investment Act No. 15 of 1998¹. The decision is made on objective published criteria.</p> <p>4) Unbound except for measures affecting the entry and temporary stay of natural persons with managerial and technical skills which are in short supply in Vanuatu or fall within the following categories:</p> <ul style="list-style-type: none"> i. business managers ii. intracorporate transferees (Managers, executives and specialists, who are employees of firms that provide services within Vanuatu through a branch, subsidiary or affiliate established in Vanuatu) iii. professionals under employment contract <p>Vanuatu provides entry in accordance with Labour Law for bona fide business visitors and service sellers²</p> | <p>3) Subject to limitation on purchase of real estate.</p> <p>The Vanuatu Constitution prohibits freehold ownership of land. Indigenous Ni-Vanuatu alone can own land under customary law provisions. Indigenous citizens and expatriates can hold land in leasehold.</p> | |

¹ The Government of Vanuatu currently requires foreigners to invest a minimum of US\$ 40,000 (VT 5 million) in order to establish a business in Vanuatu. Vanuatu reserves the right to raise this minimum in line with general cost increases.

² Service sellers are defined for the purpose of this offer as natural persons who are seeking temporary entry for the purpose of negotiating for the sale of services for that service supplier, where those representatives will not be engaged in making direct sales to the general public.

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| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|--|---|--|------------------------|
| II. SECTOR SPECIFIC COMMITMENTS | | | |
| 1. BUSINESS SERVICES | | | |
| A. Professional Services | | | |
| a) Legal services, home & host country law, including international law (CPC861) | 1) Supply must be through a domestic law firm 2) None 3) Commercial presence must take the form of sole proprietorship or partnership. 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 | |
| d) Architectural Services (CPC 8671) | 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) Engineering Services (CPC 8672) | 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 | |
| i) Veterinary Services (CPC 932) | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | |

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| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|---|--|--|---|
| F. Other Business Services | | | |
| c) Management consulting services (CPC865) | 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) Services incidental to agriculture, hunting and forestry (CPC 88110, 88120) | 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 | |
| 2. COMMUNICATION SERVICES | | | |
| Commitments are taken consistent with "Notes for Scheduling Basic Telecom Services Commitments" (S/GBT/W/2/Rev.1) and "Market Access Limitations on Spectrum Availability" (S/GBT/W/3). | | | |
| C. Telecommunication Services | 1)2)3) None, from 1 January 2012 4) Unbound, except as indicated in the horizontal section | 1)2)3) None, from 1 January 2012 4) Unbound, except as indicated in the horizontal section | Vanuatu undertakes the obligations contained in the attached Reference Paper at the end of the monopoly period. |
| a) Voice telephone services b) Packet-switched data transmission services c) Circuit-switched data transmission services d) Telex services e) Telegraph services f) Facsimile services g) Private leased circuit services | 1) None 2) None 3) Unbound until 31 December 2011 as provided by a monopoly by Telecom Vanuatu Limited. Starting no later than 1 January 2012: None 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) After 1 January 2012: None 4) Unbound, except as indicated in the horizontal section | Vanuatu undertakes the obligations contained in the attached Reference Paper at the end of the monopoly period. |

Modes of Supply : 1) Cross-border Supply 2) Consumption abroad 3) Commercial Presence 4) Presence of Natural Persons

| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|--|--|--|------------------------|
| h) Electronic mail i) Voice mail j) On-line information and data base retrieval k) Electronic data interchange l) Enhanced/value-added facsimile services (including store and forward, store and retrieve) m) Code and protocol conversion n) On-line information and/or data processing (including transaction processing) | 1) Services provided only over circuits leased from Telecom Vanuatu Limited. Starting no later than 1 January 2012: None 2) None 3) Services provided only over circuits leased from Telecom Vanuatu Limited. Starting no later than 1 January 2012: None 4) Unbound except as indicated in the horizontal section | 1) After 1 January 2012: None 2) None 3) After 1 January 2012: None 4) Unbound except as indicated in the horizontal section | |
| o) Other Mobile services Analogue/Digital cellular services PCS (Personal Communications Services) Paging services Mobile data services | 1) Services provided only over circuits leased from Telecom Vanuatu Limited. Starting no later than 1 January 2012: None 2) None 3) Services provided only over circuits leased from Telecom Vanuatu Limited. Starting no later than 1 January 2012: None 4) Unbound except as indicated in the horizontal section. | 1) After 1, January 2012: None 2) None 3) After 1 January 2012: 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 | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|---|--|--|------------------------|
| D. Audiovisual | | | |
| a) Motion picture and videotape production and distribution services (CPC 9611) | 1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section | |
| 3. CONSTRUCTION AND RELATED ENGINEERING SERVICES | | | |
| A. General construction work for buildings (CPC 512) | 1) Unbound* 2) None 3) None except brick layers, electrician, painters and decorators, jobbing plumbers, masons, plumbers, welders, fitters, turners or other artisans where the number of full time employees in the parent company is less than 7 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. General construction for civil engineering (CPC 513) | 1) Unbound* 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 | |

* Unbound due to lack of technical feasibility.

Modes of Supply : 1) Cross-border Supply 2) Consumption abroad 3) Commercial Presence 4) Presence of Natural Persons

| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|---|---|---|--|
| 4. DISTRIBUTION SERVICES | | | |
| A. Commission agents' services (CPC 621) | 1) None 2) None 3) None, except for licensing requirements 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) Non-citizens and non-resident foreign investors must pay an additional annual fee of VT91,800 and must have received an approval certificate from the Vanuatu Investment Promotion Authority. 4) Unbound, except as indicated in the horizontal section | In accordance with the Foreign Investment Act of 1998, approval certificates are issued by the Vanuatu Investment Promotion Authority in a transparent and automatic manner |
| B. Wholesale trade services (CPC 622) | 1) None 2) None 3) None, except for licensing requirements 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) Non-citizens and non-resident foreign investors must pay an additional annual fee of VT91,800 and must have received an approval certificate from the Vanuatu Investment Promotion Authority 4) Unbound, except as indicated in the horizontal section | In accordance with the Foreign Investment Act of 1998, approval certificates are issued by the Vanuatu Investment Promotion Authority in a transparent and automatic manner |
| C. Retailing services (CPC 631, 632, 6111, 6113, 6121) | 1) None 2) None 3) None, except for licensing requirements 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) Non-citizens and non-resident foreign investors must pay an additional annual fee of VT91,800 and must have received an approval certificate from the Vanuatu Investment Promotion Authority 4) Unbound, except as indicated in the horizontal section | In accordance with the Foreign Investment Act of 1998, approval certificates are issued by the Vanuatu Investment Promotion Authority in a transparent and automatic manner. |

Modes of Supply : 1) Cross-border Supply 2) Consumption abroad 3) Commercial Presence 4) Presence of Natural Persons

| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|--|--|--|------------------------|
| D. Franchising services (CPC 8929) | 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 | |
| 5. EDUCATIONAL SERVICES | | | |
| (CPC 921-929) | 1) None 2) None 3) None except subject to approval by the Government of Vanuatu to ensure adequate standards of qualification of individuals and of organisations 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 | | | |
| 940 (CPC 1-3) | 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 | |
| 7. FINANCIAL SERVICES | | | |
| A. All insurance and related services (CPC 812) | 1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section | |
| B. Banking and other related services (CPC 811-813) | 1) None 2) None 3) Banks must comply with provisions of relevant banking legislation and must have legal status in Vanuatu 4) Unbound, except as indicated in horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section | |

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| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|---|--|--|------------------------|
| 8. HEALTH RELATED AND SOCIAL SERVICES | | | |
| A. Hospital Services (CPC 9311) | 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. Social Services (CPC 933) | 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 | |
| 9. TOURISM AND TRAVEL RELATED SERVICES | | | |
| A. Hotels and Restaurants (CPC 641) | 1) None 2) None 3) None, except hotels and motels where the amount invested is less than VT 10 million in Port Vila and Luganville and less than VT 5 million in any other place (Vanuatu reserves the right to raise this minimum in line with general cost increases) and except kava bars. 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) None, except hotels with less than 10 beds and restaurant with less than 20 seats. 4) Unbound, except as indicated in the horizontal section | |
| B. Travel agencies (excluding tour operating services) | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section | |

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| Sector | Limitations of Market Access | Limitations on National Treatment | Additional commitments |
|--|--|--|------------------------|
| 11. TRANSPORT SERVICES | | | |
| C. Air Transport Services | | | |
| d) Maintenance and repair of aircraft | 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) Selling and marketing of air transport services. ³ | 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 | |

³ As defined in paragraph 6 (b) of the Annex on Air Transport Services.

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 non-discriminatory terms, conditions (incl. 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 (incl. technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled 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 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.

4. Public availability of licencing 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 licences.

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.

VANUATU - LIST OF ARTICLE II (MFN) EXEMPTIONS

| Sector or Sub-Sector | Description of measure indicating its inconsistency with Article II | Countries to which the measure applies | Intended Duration | Conditions creating the need for the exemption |
|----------------------|--|---|-------------------|---|
| All sectors | Citizens and permanent residents of Melanesian Spearhead Group Countries may be granted a waiver from the normal investment and right of temporary sojourn obligations of Vanuatu law. | Papua New Guinea, Solomon Islands, Fiji and New Caledonia | Indefinite | To facilitate the regional economic integration of the Melanesian states. |