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GATS 2000

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

TO

SWAZILAND

GENERAL REMARKS

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

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

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

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

- Business services
- Telecommunication services
- Financial services

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

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

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

- that the sector and sub-sector are clearly identified in accordance with the classification list in Document MTN.GNS/W /120 or other internationally recognised classification (e.g. Financial Services Annex) and/ or corresponding CPC number. If there is no appropriate classification, the schedule should contain a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.
- that any remaining limitation on market access (hereafter "MA") or on national treatment (hereafter "NT") are clearly described and only be inscribed in the market access or national treatment columns if the measure is of a nature foreseen by Articles XVI-XVII GATS.

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

Note: The EC reserves the right to revise and/or supplement this request. For each service sector, WI20 classification has been followed unless expressly indicated and CPCs refer to the Provisional CPC classification. The precise scope for each sector is without prejudice to the EC's final positions on classification issues and to the EC's classification of their existing commitments.

HORIZONTAL COMMITMENTS

EC REQUEST TO SWAZILAND

MODE 4

The EC wishes to obtain commitments from Swaziland in relation to intra-corporate transferees and business visitors along the lines indicated below. The EC requests that no quantitative limitations, or measures with a similar effect, be applied to these two groups of Mode 4 supplier. Swaziland may wish to enter its Mode 4 commitments either in the horizontal section of its Schedule, or for each individual sector.

Intra-corporate transferees

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

- Make a commitment without requiring an economic needs tests (sometimes also referred to as labour market testing) for Intra-corporate transfers of managers, executives and specialists (terms should be defined in the schedule). The minimum prior length of employment, the maximum length of stay, and the degree of affiliation which must exist between companies should be specified in the schedule.
- Make a similar commitment for « persons with a university degree or equivalent technical qualification who are transferring for career development purposes to obtain training in business techniques or methods.

Business Visitors

A Business Visitor is a representative of a foreign services supplier who is seeking temporary entry into the territory of Swaziland for one of the following purposes: (a) to hold meetings and/ or to negotiate the sale of services; (b) to conclude contracts to sell services; or (c) to set up a Mode 3 presence. A Business Visitor does not himself directly provide services or sell to the public. Business Visitors are usually granted entry for 90 days periods at a time. **EC request:**

- Make a commitment relating to Business Visitors who are not entering to themselves supply a service, but rather to carry out one of the activities listed above. No restrictions should apply to the entry of Business Visitors and the maximum length of stay should be at least 90 days in any 12 month period.

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

BUSINESS SERVICES (OTHER THAN PROFESSIONAL)

EC REQUEST TO SWAZILAND

B. COMPUTER AND RELATED SERVICES

Swaziland has not committed this sector. **EC request:** Extend sectoral coverage to include all of CPC 84 and schedule commitments at the two-digit level as follows:

Computer and Related Services (CPC 84)

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

F. OTHER BUSINESS SERVICES

Swaziland has partially committed this sector.

c) Management consulting service (CPC 865)

- Mode 1: MA – this mode remains unbound. **EC request:** Take full commitments, i.e. schedule “none”

d) Services related to management consulting (CPC 866)

This sub-sector has not been committed. **EC request:**

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

TELECOMMUNICATION SERVICES

EC REQUEST TO SWAZILAND

A competitive telecommunications market reduces costs for industry and private users, and facilitates and improves communication between both businesses and individuals. This enables companies in all sectors to react more quickly and adequately to the needs of consumers, to gain efficiency, raise their productivity and provide more goods and services more efficiently and at a better price. In particular, investments in this sector stimulate the development of electronic commerce, which can spur growth in almost all services sectors, regardless of the level of development of the country.

However, in order to achieve a really competitive telecommunications market in terms of price and supply, an adequate regulatory framework must be put in place, along the lines of the reference paper drafted during the telecommunications negotiations concluded in 1997. Such a regulatory framework is the necessary catalyst, if properly enforced, for competition to bear fruit where it is allowed.

Accordingly the EC suggests that Swaziland take commitments in this sector

first,. By committing to open a number of sub-sectors to competition and to foreign investment, particularly data-transmission related services which provide the key infrastructure that benefits the rest of the economy. Thus, the schedule should read “None” for market access and national treatment in the following sub-sector: (CPC 7523) data and message transmission services.

As regards voice services, the EC suggests to allow competition (Thus, the schedule should read “None” for market access and national treatment) at least in mobile services.

- second, by committing to the reference paper of the Basic Telecommunications negotiations, as additional commitments.

FINANCIAL SERVICES

EC REQUEST TO SWAZILAND

GENERAL

- **EC Request:** Follow the classification of the Annex on Financial Services.

INSURANCE

- **EC Request:** Commit direct insurance (life and non-life) in mode 3.
- **EC Request:** Commit reinsurance and retrocession in mode 1.

BANKING AND OTHER FINANCIAL SERVICES

- **EC Request:** Commit acceptance of deposits, lending of all types, financial leasing, all payment and money transmission services, and guarantees and commitments in mode 3.
- **EC Request:** Commit provision and transfer of financial information, and advisory and other auxiliary financial services in mode 1.

MFN EXEMPTION

- Swaziland maintains an MFN exemption under which Members of the Common Monetary Area enjoy preferential access to the Swaziland capital and money markets, and the transfer of funds, to and from the area of any other member of the CMA, is exempt from exchange controls. **EC Request:** Clarify measures and extent to which preferential access to capital and money markets for the members of the CMA is granted.

MFN EXEMPTIONS

EC REQUEST TO SWAZILAND

MFN exemption in financial services: see request on financial services