

EMBRATEL PARTICIPACOES SA  
Form SC TO-T  
October 03, 2006

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**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**SCHEDULE TO**

**Tender Offer Statement under Section 14(d)(1) or 13(e)(1)**

**of the Securities Exchange Act of 1934**

**EMBRATEL PARTICIPAÇÕES S.A.**

**(Name of Subject Company (Issuer))**

**TELÉFONOS DE MÉXICO, S.A. DE C.V.**

**TELMEX SOLUTIONS TELECOMUNICAÇÕES LTDA.**

**(Name of Person Filing Statement (Offeror))**

**Common Shares, no par value, Preferred Shares, no par value, and  
American Depositary Shares, each representing 5,000 Preferred Shares**

**(Titles of Class of Securities)**

**29081N209**

**(CUSIP Number of Classes of Securities)**

**Adolfo Cerezo Pérez**

**Chief Financial Officer**

**Teléfonos de México, S.A. de C.V.**

**Parque Vía 190**

**Colonia Cuahatemoc**

**06599 Mexico, D.F. Mexico**

**(52) 55 5222 5144**

*Copy to:*

**Daniel S. Sternberg**

**Nicolas Grabar**

**Cleary Gottlieb Steen & Hamilton LLP**

**One Liberty Plaza**

**New York, New York 10006**

**(212) 225-2000**

**(Name, Address and Telephone Numbers of Persons**

**Authorized to Receive Notices and Communications on Behalf of Filing Person)**

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**CALCULATION OF FILING FEE**

**Transaction Valuation\* US\$874,908,963.76**

**Amount of Filing Fee\*\* US\$93,615.26**

\* Estimated for purposes of calculating the filing fee pursuant to Rule 0 11(d) only. The Transaction Valuation was calculated assuming the purchase of all outstanding Common Shares, no par value, and all Preferred Shares, no par value (including Preferred Shares represented by American Depositary Shares), other than shares owned directly or indirectly by the Filing Persons, at a purchase price of R\$6.95 in cash per 1,000 Common Shares or Preferred Shares. As of June 30, 2006 there were 512,480,331,944 Common Shares and 475,257,755,286 Preferred Shares outstanding (including Preferred Shares represented by American Depositary Shares), of which 498,785,936,670 Common Shares and 216,232,326,229 Preferred Shares are owned directly or indirectly by the Filing Persons. As a result, this calculation assumes the purchase of 13,694,395,274 outstanding Common Shares and 259,025,429,057 outstanding Preferred Shares. The Transaction Value was calculated in Brazilian *reais* (R\$) and converted into U.S. dollars at the noon buying rate as published by the Federal Reserve Bank of New York on September 29, 2006 of US\$1 = R\$2.1664.

\*\* The filing fee, calculated in accordance with Rule 0 11 of the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 5 for fiscal year 2006, is \$107.00 per \$1 million (prorated for amounts less than \$1 million) of the aggregate Transaction Valuation. Accordingly, the filing fee is calculated by multiplying the aggregate Transaction Valuation by 0.000107.

.. Check the box if any part of the fee is offset as provided by Rule 0 11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid:  
Form or Registration No.:

Filing Party:  
Date Filed:

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer. Check the appropriate boxes below to designate any transactions to which the statement relates:

third party tender offer subject to Rule 14d 1.

.. issuer tender offer subject to Rule 13e 4.

going private transaction subject to Rule 13e 3.

.. amendment to Schedule 13D under Rule 13d 2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ..

This Tender Offer Statement on combined Schedule TO and Schedule 13E 3 (this **Combined Schedule TO** ) relates to the offer by Telmex Solutions Telecomunicações S.A. ( **Telmex Solutions** ), a limited liability company organized under the laws of the Federative Republic of Brazil and a wholly owned subsidiary of Telefónos de México, S.A. de C.V., a corporation organized under the laws of the United Mexican States ( **Telmex** ), to purchase any and all outstanding common shares, no par value (the **Common Shares** ) and any and all outstanding preferred shares, no par value (the **Preferred Shares** ), including any and all Preferred Shares represented by American Depositary Shares (the **ADSs** ), of Embratel Participações S.A., a corporation organized under the laws of the Federative Republic of Brazil ( **Embratel Holdings** ), other than the shares owned directly or indirectly by the Filing Persons, at a price of R\$6.95 per 1,000 Common Shares and R\$6.95 per 1,000 Preferred Shares (for reference, equivalent to approximately U.S.\$15.95 per ADS based on the average of the buy and sell U.S. dollar-Brazilian *real* exchange rates indicated under transaction PTAX 800, option 5 published by the Central Bank of Brazil through the SISBACEN system at 7:00 p.m., Brasilia time, on September 28, 2006, which was U.S.\$1.00 = R\$2.1789) in cash, adjusted by the Brazilian *Taxa Referencial-TR* (a monthly index published by the Central Bank of Brazil, which, for reference, was approximately 0.23% for the month of July 2006) from May 8, 2006 to the date payment is made for shares purchased in the tender offer, net of stock exchange and settlement fees, any applicable brokerage fees or commissions and applicable withholding taxes, upon the terms and subject to the conditions set forth in the offer to purchase dated October 3, 2006 (the **Offer to Purchase** ) and in the related letter of transmittal (the **Letter of Transmittal** ), which are annexed to and filed with this Combined Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively. The information set forth in the Offer to Purchase including, without limitation, all schedules thereto and the related Letter of Transmittal, is incorporated by reference herein in answer to Items 1 through 11 of this Combined Schedule TO.

This Combined Schedule TO also constitutes a Schedule 13E 3 in accordance with Instruction I to Schedule 13E 3 and Instruction J to Schedule TO.

**Item 12. Exhibits.**

- (a)(1)(A) Offer to Purchase, dated October 3, 2006.
- (a)(1)(B) Form of Letter of Transmittal.
- (a)(1)(C) Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
- (a)(1)(D) Form of Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
- (a)(1)(E) Summary Advertisement published on October 3, 2006, in *The New York Times*.
- (a)(1)(F) Notice of Voluntary Public Tender Offer for acquisition of all the common and preferred shares of Embratel Holdings, dated October 3, 2006 (English translation).
- (a)(1)(G) Materials posted on the tender offer website maintained by Telmex, as of October 3, 2006 (English translation).
- (a)(5)(A) Press release issued by Telmex on May 8, 2006 (incorporated by reference to Exhibit 99.1 of Schedule TO, filed by Telmex on May 9, 2006).
- (a)(5)(B) Material Fact filed by Telmex with *Comissão de Valores Mobiliários*, the Stock Exchange Commission of Brazil ( *CVM* ), on May 8, 2006 (incorporated by reference to Exhibit 99.2 of Schedule TO, filed by Telmex on May 9, 2006).
- (a)(5)(C) Material Fact filed by Telmex with *CVM* on May 24, 2006 (incorporated by reference to Exhibit 99.1 of Schedule TO, filed by Telmex on May 25, 2006).
- (a)(5)(D) Press release issued by Telmex on June 7, 2006 (incorporated by reference to Exhibit 99.1 of Schedule TO, filed by Telmex on June 8, 2006).
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- (a)(5)(G) Material Fact filed by Telmex with *CVM* on July 28, 2006 (incorporated by reference to Exhibit 99.1 of Schedule TO, filed by Telmex on July 31, 2006).

- (a)(5)(H) Material Fact filed by Telmex with CVM on September 28, 2006 (incorporated by reference to Exhibit 99.1 of Schedule TO, filed by Telmex on September 29, 2006).
- (a)(5)(I) Press release issued by Telmex on October 3, 2006.
- (b) None.
- (d) None.
- (g) Script prepared by MZ Consult Serviços e Negócios Ltda., the Brazilian information agent for the tender offer, in connection with contacting Brazilian shareholders of Embratel Holdings by phone to solicit their participation in the tender offer (English translation).
- (h) None.

**Item 13. Information Required by Schedule 13E 3.**

The information set forth in the Offer to Purchase including, without limitation, all schedules thereto and the related Letter of Transmittal, is incorporated by reference herein in answer to Items 1 through 16 of Schedule 13E 3, except to those items as to which information is specifically provided below.

*Schedule 13E 3, Item 13. Financial Information.*

- (b) Pro forma financial information disclosing the effect of the transaction is not material to the Offer.

*Schedule 13E 3, Item 14. Persons/Assets, Retained, Employed, Compensated or Used.*

- (b) None.

*Schedule 13E 3, Item 16. Exhibits.*

- (c) Valuation Report pursuant to CVM Instruction Number 361, dated May 1, 2006, filed with CVM on September 1, 2006 (version prepared to comply with comments from CVM) (incorporated by reference to Exhibit 99.2 of Schedule TO, filed by Telmex on September 6, 2006).
- (f) None.

**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: October 3, 2006

Telmex Solutions Telecomunicações Ltda.

By: /s/ Carlos Henrique Moreira  
Name: Carlos Henrique Moreira  
Title: Chief Executive Officer

Teléfonos de México, S.A. de C.V.

By: /s/ Adolfo Cerezo Pérez  
Name: Adolfo Cerezo Pérez  
Title: Chief Financial Officer

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