

| |
|--|
| AD HOC 133 COMMITTEE SERVICES |
| MD : 043/02 |
| SOURCE : Commission |
| FOR : Discussion |
| DATE RECEIVED : 06-03-02 |

Member States are requested to ensure that this text is not made publicly available and is only circulated to the officials concerned

GATS 2000

Request from the EC and its Member States (hereinafter the EC)

to

Australia

General remarks

This Request covers horizontal commitments and the following service sectors:

- Professional services
- Business services
- Postal and courier services
- Telecommunication services
- Construction and related engineering services
- Distribution services
- Environmental services
- Financial services
- Tourism and travel related services
- Transport (air, maritime, land, other) services
- Energy services.

The EC proposes that Australia'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.

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 corresponding CPC number. If this is not possible, 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 (thereafter "MA") or on national treatment (thereafter "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 contact point, via the Delegation of the European Commission in Geneva, or at the following EC officials in Directorate-General Trade Unit D2 (Trade in services, including e-commerce):

| | |
|-----------------------|--|
| Country Desk Officer: | Vincent Grimaud Tel: 32-2 296 3320 E-mail: vincent.grimaud@cec.eu.int |
| General issues: | João Aguiar Machado , Head of Unit Tel: 32-2 299 6310 E-mail: joao-luis.aguiar-machado@cec.eu.int Anders C. Jessen , Deputy Head of Unit Tel: 32-2 299 2457 E-mail: anders.jessen@cec.eu.int |

Note: The EC reserves the right to revise and/or supplement this Request. For each service sector, W120 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 Australia

Mode 3

- MA and NT – Foreign investment policy guidelines and the Foreign Acquisitions and Takeovers Act of 1975 set notification and examination procedures, can result in a rejection of foreign investment on the basis of national interest considerations and allow for discriminatory treatment of foreign-owned or controlled enterprises after establishment.
EC Request: Remove those limitations and discriminatory treatment.
- NT – Residency requirement for at least of two of the directors of a public company. **EC Request:** Eliminate this residency requirement.
- NT – Unbound for subsidies for research and development.
EC Request: Clarify the applicability and scope of the regime.

Mode 4

Labour market testing:

- Clarify whether labour market testing requirements are applied to Executives and senior managers (category a) and/or to Independent Executives (category b).
- Remove the labour market testing requirement for specialists entering as intra-corporate transferees.
- For other specialists, please schedule entry on labour market testing in accordance with the March 2001 Scheduling Guidelines.

Length of prior employment:

- For specialists entering as intra-corporate transferees, reduce requirement from two years to one year.
- Clarify minimum length of prior employment requirement for intra-corporate transferees.

Intra-corporate transferees:

- The EC requests that a commitment be made to allow as intra-corporate transferees without compliance with labour market testing « persons with a university degree or equivalent technical qualification who are transferring for career development purposes or to obtain training in business techniques or methods ». The maximum prior employment requirement should be one year.

Specialists:

- Clarify whether specialists are required to be employed by a company in Australia, or whether this entry also covers persons entering as contractual service suppliers who are specialists. A contractual service supplier is a juridical person with no commercial presence in Australia, who has obtained a service contract in Australia which requires the presence of its employees in order to fulfil that contract.

Other:

- Clarify effect of entry « This requirement would also normally be regarded as being satisfied in cases where the person seeking a business visit visa had won a contract to provide a service in Australia. » For example, in such cases, is the person concerned exempt from the prohibition on supplying a service himself?

Contractual Service Suppliers:

- A contractual service supplier is a juridical person with no commercial presence in Australia, which has obtained a service contract in Australia which requires the presence of its employees in order to fulfil that contract. **EC Request:** Clarify extent of current commitments in relation to contractual service suppliers.

Additional commitments.

- Difficulties are experienced as a result of the length of time taken to process work and residence permits. The EC wishes to discuss the possibility of taking additional commitments to address this issue.

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

PROFESSIONAL SERVICES

EC Request to Australia

Australia has committed this sector only partially. The EC requests that this sector is committed as follows:

a. Legal Services (CPC 861)

- This sub-sector is not committed for practice of third country law.
EC Request: Extend sectoral coverage of commitments to consultancy on law of jurisdiction where the service supplier or its personnel are qualified lawyers.
- Mode 3: MA – Prohibition of entering into partnership with or employing local lawyers. **EC Request:** Eliminate this prohibition.
- Mode 3: NT – Residency requirement of at least one equity partner in NSW, Victoria and Queensland. **EC Request:** Remove this requirement.

b. Accounting, auditing and bookkeeping services (CPC 862)

- Mode 3: MA – Registrations of auditors and liquidators restricted to natural persons. **EC Request:** Remove this restriction.
- Mode 3: NT – Residency requirement of at least one equity partner.
EC Request: Eliminate this requirement.

BUSINESS SERVICES (OTHER THAN PROFESSIONAL)

EC Request to Australia

B. Computer and Related Services

General

- This sub-sector has only been partially committed. **EC Request:** Extend coverage to include services falling under CPCs 844 and 849, and schedule commitments at the two-digit level – i.e. CPC 84.

In view of the rapid technological advances that have taken, and continue to take place, in this sub-sector, the EC proposes to seek clarification at a multilateral level as to what services are considered to be covered under CPC Prov 84.

C. Research and Development Services

a. R&D Services on natural sciences (CPC 851)

Australia has not committed this sub-sector. **EC Request:**

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

b. R&D Services on social sciences and humanities (CPC 852)

- Mode 4: NT - Permanent residency requirement for psychologists in Western Australia. **EC Request:** Eliminate

c. Interdisciplinary R&D services. (CPC 853)

Australia has not committed this sub-sector. **EC Request:**

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

D. Real Estate Services

a. Involving own or leased property (CPC 821), and

b. On a fee or contract basis (CPC 822)

- Modes 1 and 2: MA – Commercial presence requirement.
EC Request: Eliminate.

F. Other Business Services

***NB:** Requests (if any) on (h) - services incidental to mining, and (j) - services incidental to energy distribution, are covered in those sections of the request dealing with Energy Services and Construction Services.*

a. Advertising (CPC 871)

- This sub-sector is not committed for « production or broadcast/screening of advertisements for radio, television or cinema. **EC Request:** Bind in the same way as rest of CPC 871.

d. Services related to management consulting (CPC 866)

- This sub-sector is not committed for « arbitration and conciliation services ». **EC Request:** Bind in the same way as the rest of CPC 866.

e. Technical testing and analysis services (CPC 8676)

Australia has not committed this sub-sector. **EC Request:**

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

k. Placement and supply services of personnel (CPC 872)

- Mode 1: MA and NT - This mode remains unbound. **EC Request:** Take full commitments, i.e. schedule « none » under MA and NT.

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

This sub-sector is not committed for CPCs 86751, 86754 and part of 86752.

EC Request for these CPCs:

- Modes 1, 2 and 3: Take full commitments, i.e. schedule "none" under MA and NT.

- Mode 4: Commit as referred to in the section "Horizontal commitments".

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

Australia has not committed this sub-sector. **EC Request:**

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

POSTAL AND COURIER SERVICES

EC Request to Australia

This Request includes sub-sectors that are listed under the negotiating proposal of the EC (S/CSS/W/61). The work on the revision of classification of this sector is still underway. For this reason, the sub-sectors lack reference to CPC.

Australia has not undertaken commitments in postal and courier services. The EC requests Australia to commit this sector as follows, based on the EC proposal for the revised classification of postal and courier services:

Services relating to the handling¹ of postal items², whether for domestic or foreign destinations:

A. Handling of addressed written communications on any kind of physical medium³, including:

- Hybrid mail services

- Direct mail

B. Handling of addressed parcels and packages⁴

C. Handling of addressed press products⁵

D. Handling of items referred to in A. to C. above as registered or insured mail.

E. Express delivery services⁶ for items referred to in A. to C. above.

F. Handling of non-addressed items.

G. Document exchange.

H. Other services not elsewhere specified.

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

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

3 E.g. letter, postcards.

4 Books, catalogues are included hereunder.

5 Journals, newspapers, periodicals.

6 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.

EC Request for sub-sectors B., C., E., F. and G.:

- Modes 1, 2 and 3: Undertake full commitments for market access and national treatment.
- Mode 4: Commit as referred to in the section « Horizontal commitments ».

EC Request for sub-sectors A. and D.:

- Modes 1, 2 and 3: Undertake commitments for market access and national treatment.
- Mode 4: Commit as referred to in the section « Horizontal commitments ».

TELECOMMUNICATION SERVICES

EC Request to Australia

Australia has only partially committed this Sector. The EC requests that this Sector is committed as follows:

Mode 3

- Foreign equity in Telstra has been limited to 35% of the first third of company stock offered to the public (about 11.7% of total equity) with a limit of 5% of the one third (about 1.7% of total equity) available to individual or associated group foreign investors. **EC Request:** Remove this limit.
- There are no limits on total foreign equity in Optus (holder of general carrier and mobile licence). However, foreign investment policy requirements for Optus are such that there are certain limits on the share of equity which any individual foreign shareholder may hold. There is also a requirement for majority Australian ownership of Vodafone (holder of a mobile carrier licence). **EC Request:** Remove these limits.
- The Chairman and directors of Optus must be Australian citizens, other than those directors (who must comprise the minority) appointed by the two current major foreign investors. **EC Request:** Remove these restrictions.

CONSTRUCTION AND RELATED ENGINEERING SERVICES

EC Request to Australia

E. Other (CPC 511+515+518)

This sub-sector is not committed. **EC Request:**

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

DISTRIBUTION SERVICES

EC Request to Australia

A. Commission agents' services (CPC 621, 6111+6113+6121)

The distribution of the following goods is not committed:

- Agricultural raw materials and live animals (CPC 62111)
- Food, beverages and tobacco (CPC 62112)
- Motor vehicles (CPC 6111+6113+6121)

EC Request for these goods:

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

B. Wholesale trade services (CPC 622, 6111+6113+6121)

The distribution of the following goods is not committed:

- Agricultural raw materials and live animals (CPC 6221)
- Food, beverages and tobacco (CPC 6222)
- Motor vehicles (CPC 6111+6113+6121)

EC Request for these goods:

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

Mode 1: By mail order only. **EC Request:** Remove the restriction and schedule "none"

C. Retailing services (CPC 631+632, 6111+6113+6121+613)

The distribution of the following goods is not committed:

- Pharmaceutical, medical and orthopaedic goods (CPC 63211)
- Motor vehicles (CPC 6111+6113+6121+613)

EC Request for these goods:

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

Mode 1: By mail order only. **EC Request:** Remove the restriction and schedule "none"

ENVIRONMENTAL SERVICES

EC Request to Australia

The EC requests Australia to commit the following subsectors, and schedule existing commitments accordingly, based on the EC proposal for the classification of environmental services:

A. Water for human use & wastewater management

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

EC Request: Extend sectoral coverage to include the above services, and take full commitments in that subsector for mode 2 and 3.

C. Protection of ambient air and climate

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

EC Request: Extend sectoral coverage to include the above services, and take full commitments in that subsector for mode 2 and 3.

D. Remediation and cleanup of soil & water

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

EC Request: Extend sectoral coverage to include the above services, and take full commitments in that subsector for mode 2 and 3.

E. Noise & vibration abatement

Noise abatement services (CPC 94050).

EC Request: Extend sectoral coverage to include the above services, and take full commitments for modes 2 and 3.

F. Protection of biodiversity and landscape

Nature and landscape protection services (part of CPC 94060).

EC Request: Extend sectoral coverage to include the above services, and take full commitments in that subsector for modes 2 and 3.

G. Other environmental & ancillary services

Other environmental protection services not classified elsewhere (CPC 94090).

EC Request: Extend sectoral coverage to include the other environmental services, and take full commitments in that subsector for mode 2 and 3.

FINANCIAL SERVICES

EC Request to Australia

Insurance

- Mode 3: MA - Direct branching in life insurance is not allowed.
EC Request: Commit direct branching.
- Mode 1: MA –Non-established insurance firms are required to have an Australian resident agent. **EC Request:** Remove this requirement.
- Mode 3: MA – Monopolies and licensing provisions at State level in third party motor liability insurance and workers' compensation insurance.
EC Request: Open to competition.

Banking and other financial services

- Mode 3: MA - Licensing of foreign banks subject to the demonstration of their potential contribution to competition in Australia.
EC Request: Remove this economic needs test.
- Mode 3: MA - Foreign banks' branches are not allowed to collect retail deposits. **EC Request:** Remove this restriction.
- Mode 3: MA - Existence of discriminations regarding taxation of foreign bank branches, in particular the Interest Withholding Tax (10%) imposed on half of the interest on an intra-bank borrowing by foreign bank branches, which is not applied to banks incorporated in Australia.
EC Request: Clarify that the commitments on direct branching does not allow such discrimination.

TOURISM AND TRAVEL RELATED SERVICES

EC Request to Australia

B. Travel agencies and tour operators services (CPC 7471)

- Mode 1: MA - Australia requires commercial presence for travel agencies.
EC Request: Allow cross-border provision of travel agency and tour operator services (i.e. remove commercial presence requirement)

TRANSPORT SERVICES

EC Request to Australia

A. Maritime transport

Australia has specific commitments with certain restrictions for maritime transport. Restrictions relate in particular to: transport to offshore activities, a clarification of restrictions in the 1974-Trade Practices Act on liner activities, and for port-services, cargo-handling, customs clearance, container stations (not committed).

EC Request: Take commitments in accordance with the attached model schedule (Annex 1). In particular for the following areas:

- 1) International transport (freight and passengers) CPC 7211 and 7212
- 2) Additional commitments for access to and use of ports facilities
- 3) Maritime auxiliary services (maritime cargo handling, storage and warehouse services, customs clearance services, container station and depot services, maritime agency services)
- 4) Multimodal activities: for inland forwarding of cargoes - commit the ability to rent or lease - or to have access to and use of multimodal facilities (as specified in the note to the schedule).
- 5) Definitions – commit definitions as specified in the model schedule.

The EC also request the following additional maritime commitments from Australia:

- 6) Equipment. To facilitate planning of their businesses operators should be allowed to reposition their own equipment, such as empty containers, between ports of Australia, when it is not carried against payment. This is requested to be committed in a new footnote:

“9. Movement of own equipment. International maritime transport suppliers can move/reposition their own equipment (i.e. empty containers, flatbeds etc.) on their own vessels between ports of Australia.”

- 7) International cargo. Notwithstanding the general exclusion of “cabotage” in the definitions of the model schedule (see Annex 1) an international maritime transport supplier should be allowed to operate feeder services for its own international cargo between ports of Australia. This is requested to be committed in a new footnote:

“10. Notwithstanding the exclusion of “cabotage” in definition 1 above international maritime transport suppliers can operate vessels for the purposes of pre- and onward carriage of the international cargo between ports of Australia.”

In this context Australia may wish to take the one or more of the following principles into concern:

- Size of the port. Only valid for international cargo relayed between national ports handling more than [25.000 TEU] on an annual basis.
- Binding existing ad hoc practices. To the extent exceptions are already granted for use of foreign flagged vessels such practices could be bound to explicitly cover pre- and onward carriage of international cargo.
- Geographical limitations: Transport of international cargo between ports within the same state [or other relevant sub-federal/regional entity] remains excluded.

A final request related to maritime transport is:

- 8) Rental and leasing of vessels with crew (CPC 7213, 7223).
Australia has currently restricted this activity to international transport
EC Request:
- Modes 1, 2 and 3: Take full commitments, i.e. schedule “none”, under MA and NT
 - Mode 4: Commit as in horizontal commitments.

B. Internal waterways:

Australia has no commitments for this activity.

c) Rental and leasing of vessels with crew (CPC 7213, 7223)

EC Request:

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

C. Air transport

Australia has commitments for maintenance and repair of aircraft and parts thereof, selling and marketing, and computer reservation systems. The EC shall ask Australia to also consider the following areas:

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

EC Request:

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

2) Airport management services, as specified in the attached definitions (Annex 2).

EC Request:

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

E. Rail transport

Australia has no commitments for this activity.

d) Maintenance and Repair of Rail Transport Equipment (CPC 8868).

EC Request:

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

F. Road transport

b) Freight Transportation (CPC 7123).

Australia has specific commitments for this activity, but restricted to only some parts of the classification (CPC 71231-71234).

EC Request:

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

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

Australia has no commitment for this activity.

EC Request:

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

Annex 1: SCHEDULE ON MARITIME TRANSPORT SERVICES

| Sector or Sub-Sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|---|--|-----------------------------------|--|
| TRANSPORT SERVICES MARITIME TRANSPORT SERVICES International Transport (freight and passengers) CPC 7211 and 7212 less cabotage transport | 1) (a) <u>Liner Shipping</u> : none (b) <u>Bulk, tramp, and other international shipping, including passenger transportation</u> : none | 1) (a) None (b) None | 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 9. Anchorage, berth and berthing services 1) See note |

| Sector or Sub-Sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|---|---|--|------------------------|
| TRANSPORT SERVICES MARITIME TRANSPORT SERVICES International Transport (freight and passengers) CPC 7211 and 7212 less cabotage transport (cont.) | 2) None 3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment unbound (b) Other forms of commercial presence for the supply of international maritime transport services (as defined below – 2): none 4) (a) Ships' crews: unbound (b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above: Unbound except as in horizontal section | 2) None 3) (a) Unbound (b) None 4) (a) Unbound (b) Unbound except as in horizontal section | 3) (b) See Notes 2, 3, |

| Sector or Sub-Sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|---|---|---|------------------------|
| MARITIME AUXILIARY SERVICES | | | |
| Maritime Cargo Handling Services (as defined below – 4) | 1) Unbound* except for – no limitation on transshipment (board to board or via the quay) and/or on the use of on-board cargo handling equipment 2) None 3) None** 4) Unbound except as in horizontal section | 1) Unbound* except for no limitation on transshipment (board to board or via the quay) and/or on the use of on-board cargo handling equipment 2) None 3) None 4) Unbound except as in horizontal section | |
| Storage and warehousing Services CPC 742 | 1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section | 1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section | |
| Customs Clearance Services (as defined below – 5) | 1) Unbound* 2) None 3) None** 4) Unbound except as in horizontal section | 1) Unbound* 2) None 3) None 4) Unbound except as in horizontal section | |

| Sector or Sub-Sector | Limitations on Market Access | | Limitations on National Treatment | | Additional Commitments |
|---|------------------------------|---|-----------------------------------|---|------------------------|
| MARITIME AUXILIARY SERVICES (cont.) | | | | | |
| Container Station and Depot Services (as defined below – 6) | 1) | Unbound* | 1) | Unbound* | |
| | 2) | None | 2) | None | |
| | 3) | None** | 3) | None | |
| | 4) | Unbound except as in horizontal section | 4) | Unbound except as in horizontal section | |
| Maritime Agency Services (as defined below – 7) | 1) | None | 1) | None | |
| | 2) | None | 2) | None | |
| | 3) | None | 3) | None | |
| | 4) | Unbound except as in horizontal section | 4) | Unbound except as in horizontal section | |
| (Maritime) Freight Forwarding Services (as defined below - 8) | 1) | None | 1) | None | |
| | 2) | None | 2) | None | |
| | 3) | None | 3) | None | |
| | 4) | Unbound except as in horizontal section | 4) | Unbound except as in horizontal section | |

* A commitment on this mode of delivery is not feasible.

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

NOTE TO THE SCHEDULE

Where road, rail, inland waterways (and) (related) (auxiliary) services are not otherwise fully covered in (this) (a Member's) schedule, a multimodal transport operator shall have the ability to rent or lease trucks, railway carriages or barges, and related equipment, for the purpose of inland forwarding of cargoes, or have access to, and use of, these forms of multimodal activities on reasonable and non-discriminatory terms and conditions for the purpose of carrying out multimodal transport operations. (« Reasonable and non-discriminatory terms and conditions » means, for the purpose of (multimodal transport operations), (this additional commitment), the ability of the multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other merchandise which has entered the port at a later date).

DEFINITIONS

1. 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 ... (name of country or, for EEC, « a Member State ») and another port located in ... (name of the country or, for EEC, « the same Member State ») and traffic originating and terminating in ... the same port located in (name of country, or for the EEC, « a Member State ») provided that this traffic remains within ... (name of country or « this Member State »)'s territorial waters.

2. « 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).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);
- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

- (f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.
3. « Multimodal transport operators » means the person on whose behalf the bill of lading /multimodal transport document, or any other document evidencing a contract of multimodal carriage of goods, is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.
4. « 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:
- the loading/discharging of cargo to/from a ship;
 - the lashing/unlashing of cargo;
 - the reception/delivery and safekeeping of cargoes before shipment or after discharge.
5. « Customs clearance services » (alternatively « customs house brokers' 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.
6. « 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.
7. « 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:
- 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;
 - acting on behalf of the companies organising the call of the ship or taking over cargoes when required.
8. « 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).

Annex 2 Facilitating air transport services

Ground-handling Services

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

For specialised groundhandling suppliers the following activities are requested:

- Ground Administration – supervision and administration at the airport (CPC 7461);
- Passenger Handling – assisting arriving, departing and transfer passengers (CPC 7461);
- Baggage Handling – handling baggage in the sorting area (CPC 7461);
- Freight and Mail Handling – physical handling of freight and mail, dealing with security and customs procedures (CPC 74110 (container handling services) and 74190 (other cargo handling services);
- Ramp Handling – marshalling and moving the aircraft, loading and unloading of aircraft, transport of passengers, freight, supplies (CPC 7469).
- Aircraft Services – cleaning the aircraft, heating and cooling, removal of snow and ice (CPC 7469);
- Fuel and Oil Handling – organisation and provision of fuel and oil;
- Aircraft Maintenance – covered specifically by the Annex as above;
- Flight Operations and Crew Administration – preparation of the flight, inflight and post-flight assistance, crew administration;
- Surface Transport – organisation and execution of transport within airport – except to and from aircraft;
- Catering Services – administration, storage, preparation and delivery of bar and food supplies (CPC 6423). *[Catering is listed for only for information purposes as this activity is classified and committed by Australia as part of tourism services]*

Airport management services

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

ENERGY SERVICES

EC Request to Australia

This Request includes services that are listed under the negotiating proposal of the EC (S/CSS/W/60). The work on the classification of these services is still underway. For this reason, some activities therefore lack reference to CPC.

The EC requests that this area is committed as follows:

A. Services related to exploration and production

- CPC 883: Services incidental to mining

EC Request:

- Eliminate the limitation to consultancy services

- CPC 511: Construction and related engineering services - Other

This sub-sector is not committed. **EC Request:**

- Mode 3: Take full commitments, i.e. schedule "none".
- Mode 4: Commit as referred to in the section "Horizontal commitments".

C. Services related to networks

C.1 Operation of transportation/transmission and distribution facilities

- CPC 887: Services incidental to energy distribution

EC Request:

- Modes 3: Take full commitments for operation of networks not part of the integrated system (Eliminate the limitation to consultancy services)
- Mode 4: Commit as referred to in the section "Horizontal commitments" (Eliminate the limitation to consultancy services)

E. Services for the supply of energy

E.1 Wholesale of energy products

- Wholesale trade services of electricity

EC Request:

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

E.3 Trading of energy products

EC Request:

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

E.4 Brokering of energy products

EC Request:

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

G. Services related to decommissioning

EC Request:

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